

STATE OF NEW YORK

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IN ASSEMBLY

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Introduced by M. of A. PEOPLES-STOKES, GOTTFRIED, LUPARDO, SOLAGES, HUNTER, HYNDMAN, WEPRIN, PICHARDO, L. ROSENTHAL, DINOWITZ, JEAN-PIERRE, ABINANTI, RICHARDSON, HEVESI, WALKER, VANEL, NIOU, BICHOTTE HERMELYN, CAHILL, EPSTEIN, QUART, REYES, DICKENS, FRONTUS, CRUZ, DARLING, RODRIGUEZ, FERNANDEZ, BRONSON, DE LA ROSA, FALL, CARROLL, RAMOS, BENEDETTO, SIMON, KIM, AUBRY -- Multi-Sponsored by -- M. of A. SEAWRIGHT, STECK, TAYLOR -- read once and referred to the Committee on Codes

AN ACT in relation to constituting chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the penal law, in relation to the growing and use of cannabis by persons twenty-one years of age or older; to amend the tax law, in relation to providing for the levying of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law, the alcoholic beverage control law, the general obligations law, the social services law, the agriculture and markets law and the vehicle and traffic law, in relation to making conforming changes; to amend the public health law, in relation to the definition of smoking; to amend the state finance law, in relation to establishing the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to growing of cannabis and medical use of marihuana; to repeal article 221 of the penal law relating to offenses involving marihuana; to repeal paragraph (f) of

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal certain provisions of the criminal procedure law relating to certain criminal actions; and to repeal certain provisions of the agriculture and markets law relating to industrial hemp

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "marihuana
2 regulation and taxation act".

3 § 2. Chapter 7-A of the consolidated laws is enacted, to read as
4 follows:

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS

6 CANNABIS LAW

7 ARTICLE 1

8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent.

12 3. Definitions.

13 Section 1. Short title. This chapter shall be known and may be cited
14 and referred to as the "cannabis law".

15 § 2. Legislative findings and intent. The legislature finds that
16 existing marihuana laws have not been beneficial to the welfare of the
17 general public. Existing laws have been ineffective in reducing or curb-
18 ing marihuana use and have instead resulted in devastating collateral
19 consequences including mass incarceration and other complex generational
20 trauma, that inhibit an otherwise law-abiding citizen's ability to
21 access housing, employment opportunities, and other vital services.
22 Existing laws have also created an illicit market which represents a
23 threat to public health and reduces the ability of the legislature to
24 deter the accessing of marihuana by minors. Existing marihuana laws have
25 disproportionately impacted African-American and Latinx communities.

26 The intent of this act is to regulate, control, and tax marihuana,
27 heretofore known as cannabis, generate significant new revenue, make
28 substantial investments in communities and people most impacted by mari-
29 huana criminalization to address the collateral consequences of such
30 criminalization, prevent access to cannabis by those under the age of
31 twenty-one years, reduce the illegal drug market and reduce violent
32 crime, reduce participation of otherwise law-abiding citizens in the
33 illicit market, end the racially disparate impact of existing cannabis
34 laws, create new industries and increase employment and strengthen New
35 York's agriculture sector.

36 Nothing in this act is intended to limit the authority of any district
37 government agency or office or employers to enact and enforce policies
38 pertaining to cannabis in the workplace, to allow driving under the
39 influence of cannabis, to allow individuals to engage in conduct that
40 endangers others, to allow smoking cannabis in any location where smok-
41 ing tobacco is prohibited, or to require any individual to engage in any
42 conduct that violates federal law or to exempt anyone from any require-
43 ment of federal law or pose any obstacle to the federal enforcement of
44 federal law.

1 The legislature further finds and declares that it is in the best
2 interest of the state to regulate medical cannabis, adult-use cannabis,
3 cannabinoid hemp and hemp extracts under independent entities, known as
4 the cannabis control board and the office of cannabis management.

5 § 3. Definitions. Whenever used in this chapter, unless otherwise
6 expressly stated or unless the context or subject matter requires a
7 different meaning, the following terms shall have the representative
8 meanings hereinafter set forth or indicated:

9 1. "Applicant" means a resident of New York state who is a citizen of
10 the United States or a person lawfully admitted for permanent residency
11 in the United States aged twenty-one years or older applying for any
12 cannabis or hemp licenses or special use permits issued by the New York
13 state cannabis control board pursuant to this chapter; provided, however
14 applicants for hemp licenses may be aged eighteen years or older.

15 2. "Cannabinoid" means the phytocannabinoids found in hemp and does
16 not include synthetic cannabinoids as that term is defined in subdivi-
17 sion (g) of schedule I of section thirty-three hundred six of the public
18 health law.

19 3. "Cannabinoid hemp" means any hemp and any product processed or
20 derived from hemp, that is used for human consumption provided that when
21 such product is packaged or offered for retail sale to a consumer, it
22 shall not have a concentration of more than three tenths of a percent
23 delta-9 tetrahydrocannabinol.

24 4. "Cannabinoid hemp processor license" means a license granted by the
25 department to process, extract, pack or manufacture cannabinoid hemp or
26 hemp extract into products, whether in intermediate or final form, used
27 for human consumption.

28 5. "Cannabis" means all parts of the plant of the genus Cannabis,
29 whether growing or not; the seeds thereof; the resin extracted from any
30 part of the plant; and every compound, manufacture, salt, derivative,
31 mixture, or preparation of the plant, its seeds or resin. It does not
32 include the mature stalks of the plant, fiber produced from the stalks,
33 oil or cake made from the seeds of the plant, any other compound, manu-
34 facture, salt, derivative, mixture, or preparation of the mature stalks
35 (except the resin extracted therefrom), fiber, oil, or cake, or the
36 sterilized seed of the plant which is incapable of germination. It does
37 not include hemp, cannabinoid hemp or hemp extract as defined by this
38 section.

39 6. "Cannabis consumer" means a person twenty-one years of age or older
40 acting in accordance with any provision of this chapter.

41 7. "Cannabis control board" means the New York state cannabis control
42 board created pursuant to article two of this chapter.

43 8. "Cannabis flower" means the flower of a plant of the genus Cannabis
44 that has been harvested, dried, and cured, prior to any processing
45 whereby the plant material is transformed into a concentrate, including,
46 but not limited to, concentrated cannabis, or an edible or topical prod-
47 uct containing cannabis or concentrated cannabis and other ingredients.
48 Cannabis flower excludes leaves and stem.

49 9. "Cannabis product" or "adult-use cannabis product" means cannabis,
50 concentrated cannabis, and cannabis-infused products for use by a canna-
51 bis consumer.

52 10. "Cannabis-infused products" means products that have been manufac-
53 tured and contain either cannabis or concentrated cannabis and other
54 ingredients that are intended for use or consumption.

- 1 11. "Cannabis trim" means all parts of the plant of the genus Cannabis
2 other than cannabis flower that have been harvested, dried, and cured,
3 but prior to any further processing.
- 4 12. "Caring for" means treating a patient, in the course of which the
5 practitioner has completed a full assessment of the patient's medical
6 history and current medical condition.
- 7 13. "Certification" means a certification made under this chapter.
- 8 14. "Certified medical use" includes the acquisition, administration,
9 cultivation, manufacture, delivery, harvest, possession, preparation,
10 transfer, transportation, or use of cannabis or paraphernalia relating
11 to the administration of cannabis to treat or alleviate a certified
12 patient's medical condition or symptoms associated with the patient's
13 medical condition.
- 14 15. "Certified patient" means a patient who is a resident of New York
15 state or receiving care and treatment in New York state as determined by
16 the board in regulation, and is certified under this chapter.
- 17 16. "Chief equity officer" means the chief equity officer of the
18 office of cannabis management.
- 19 17. "Commercial cannabis activity" means the production, cultivation,
20 manufacturing, processing, possession, storing, laboratory testing,
21 packaging, labeling, transportation, delivery, or sale of cannabis and
22 cannabis products as provided for in this chapter.
- 23 18. "Concentrated cannabis" means: (a) the separated resin, whether
24 crude or purified, obtained from a plant of the genus Cannabis; or (b) a
25 material, preparation, mixture, compound or other substance which
26 contains more than three percent by weight of delta-9 tetrahydrocannabi-
27 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
28 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
29 system.
- 30 19. "Condition" means having one of the following conditions: cancer,
31 positive status for human immunodeficiency virus or acquired immune
32 deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease,
33 multiple sclerosis, damage to the nervous tissue of the spinal cord with
34 objective neurological indication of intractable spasticity, epilepsy,
35 inflammatory bowel disease, neuropathies, Huntington's disease, post-
36 traumatic stress disorder, pain that degrades health and functional
37 capability where the use of medical cannabis is an alternative to opioid
38 use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia,
39 rheumatoid arthritis, autism or any other condition certified by the
40 practitioner.
- 41 20. "Cultivation" means growing, cloning, harvesting, drying, curing,
42 grading, and trimming of cannabis plants for sale to certain other cate-
43 gories of cannabis license- and permit-holders.
- 44 21. "Delivery" means the direct delivery of cannabis products by a
45 retail licensee, microbusiness licensee, or delivery license holder to a
46 cannabis consumer.
- 47 22. "Designated caregiver facility" means a general hospital or resi-
48 dential health care facility operating pursuant to article twenty-eight
49 of the public health law; an adult care facility operating pursuant to
50 title two of article seven of the social services law; a community
51 mental health residence established pursuant to section 41.44 of the
52 mental hygiene law; a hospital operating pursuant to section 7.17 of the
53 mental hygiene law; a mental hygiene facility operating pursuant to
54 article thirty-one of the mental hygiene law; an inpatient or residen-
55 tial treatment program certified pursuant to article thirty-two of the
56 mental hygiene law; a residential facility for the care and treatment of

1 persons with developmental disabilities operating pursuant to article
2 sixteen of the mental hygiene law; a residential treatment facility for
3 children and youth operating pursuant to article thirty-one of the
4 mental hygiene law; a private or public school; research institution
5 with an internal review board; or any other facility as determined by
6 the board in regulation; that registers with the office to assist one or
7 more certified patients with the acquisition, possession, delivery,
8 transportation or administration of medical cannabis.

9 23. "Designated caregiver" means an individual designated by a certi-
10 fied patient in a registry application. A certified patient may desig-
11 nate up to five designated caregivers not counting designated caregiver
12 facilities or designated caregiver facilities' employees.

13 24. "Designated caregiver facility employee" means an employee of a
14 designated caregiver facility.

15 25. "Distributor" means any person who sells at wholesale any cannabis
16 product, except medical cannabis, for the sale of which a license is
17 required under the provisions of this chapter.

18 26. "Executive director" means the executive director of the office of
19 cannabis management.

20 27. "Form of medical cannabis" means characteristics of the medical
21 cannabis recommended or limited for a particular certified patient,
22 including the method of consumption and any particular strain, variety,
23 and quantity or percentage of cannabis or particular active ingredient.

24 28. "Hemp" means the plant *Cannabis sativa* L. and any part of such
25 plant, including the seeds thereof and all derivatives, extracts, canna-
26 binoids, isomers, acids, salts, and salts of isomers, whether growing or
27 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more
28 than three-tenths of a percent on a dry weight basis. It shall not
29 include "medical cannabis" as defined in this section.

30 29. "Hemp extract" means all derivatives, extracts, cannabinoids,
31 isomers, acids, salts, and salts of isomers derived from hemp, used or
32 intended for human consumption, for its cannabinoid content, with a
33 delta-9 tetrahydrocannabinol concentration of not more than an amount
34 determined by the department in regulation. For the purpose of this
35 article, hemp extract excludes (a) any food, food ingredient or food
36 additive that is generally recognized as safe pursuant to federal law;
37 or (b) any hemp extract that is not used for human consumption. Such
38 excluded substances shall not be regulated pursuant to the provisions of
39 this article but are subject to other provisions of applicable state
40 law, rules and regulations.

41 30. "Labor peace agreement" means an agreement between an entity and a
42 labor organization that, at a minimum, protects the state's proprietary
43 interests by prohibiting labor organizations and members from engaging
44 in picketing, work stoppages, boycotts, and any other economic interfer-
45 ence with the entity.

46 31. "Laboratory testing facility" means any independent laboratory
47 capable of testing cannabis and cannabis products for adult-use and
48 medical-use; cannabinoid hemp and hemp extract; or for all categories of
49 cannabis and cannabis products as per regulations set forth by the state
50 cannabis control board.

51 32. "License" means a written authorization as provided under this
52 chapter permitting persons to engage in a specified activity authorized
53 pursuant to this chapter.

54 33. "Licensee" means an individual or an entity who has been granted a
55 license under this chapter.

1 34. "Medical cannabis" means cannabis as defined in this section,
2 intended for a certified medical use, as determined by the board in
3 consultation with the commissioner of health.

4 35. "Microbusiness" means a licensee that may act as a cannabis
5 producer for the cultivation of cannabis, a cannabis processor, a canna-
6 bis distributor and a cannabis retailer under this article; provided
7 such licensee complies with all requirements imposed by this article on
8 licensed producers, processors, distributors and retailers to the extent
9 the licensee engages in such activities.

10 36. "Nursery" means a licensee that produces only clones, immature
11 plants, seeds, and other agricultural products used specifically for the
12 planting, propagation, and cultivation of cannabis.

13 37. "Office" or "office of cannabis management" means the New York
14 state office of cannabis management.

15 38. "On-site consumption" means the consumption of cannabis in an area
16 licensed as provided for in this chapter.

17 39. "Owner" means an individual with an aggregate ownership interest
18 of twenty percent or more in a cannabis business licensed pursuant to
19 this chapter, unless such interest is solely a security, lien, or encum-
20 brance, or an individual that will be participating in the direction,
21 control, or management of the licensed cannabis business.

22 40. "Package" means any container or receptacle used for holding
23 cannabis or cannabis products.

24 41. "Permit" means a permit issued pursuant to this chapter.

25 42. "Permittee" means any person to whom a permit has been issued
26 pursuant to this chapter.

27 43. "Practitioner" means a practitioner who is licensed, registered or
28 certified by New York state to prescribe controlled substances within
29 the state. Nothing in this chapter shall be interpreted so as to give
30 any such person authority to act outside their scope of practice as
31 defined by title eight of the education law. Additionally, nothing in
32 this chapter shall be interpreted to allow any unlicensed, unregistered,
33 or uncertified person to act in a manner that would require a license,
34 registration, or certification pursuant to title eight of the education
35 law.

36 44. "Processor" means a licensee that extracts concentrated cannabis
37 and/or compounds, blends, extracts, infuses, or otherwise manufactures
38 concentrated cannabis or cannabis products, but not the cultivation of
39 the cannabis contained in the cannabis product.

40 45. "Registered organization" means an organization registered under
41 article three of this chapter.

42 46. "Registry application" means an application properly completed and
43 filed with the board by a certified patient under article three of this
44 chapter.

45 47. "Registry identification card" means a document that identifies a
46 certified patient or designated caregiver, as provided under this chap-
47 ter.

48 48. "Retail sale" means to solicit or receive an order for, to keep or
49 expose for sale, and to keep with intent to sell, made by any licensed
50 person, whether principal, proprietor, agent, or employee, of any canna-
51 bis, cannabis product, cannabinoid hemp or hemp extract product to a
52 cannabis consumer for any purpose other than resale.

53 49. "Retailer" means any person who sells at retail any cannabis prod-
54 uct, the sale of which a license is required under the provisions of
55 this chapter.

1 50. "Small business" means small business as defined in section one
2 hundred thirty-one of the economic development law, and shall apply for
3 purposes of this chapter where any inconsistencies exist.

4 51. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
5 any other matter or substance which contains cannabis including the use
6 of an electronic smoking device that creates an aerosol or vapor.

7 52. "Social and economic equity applicant" means an individual or an
8 entity who is eligible for priority licensing pursuant to the criteria
9 established in article four of this chapter.

10 53. "Terminally ill" means an individual has a medical prognosis that
11 the individual's life expectancy is approximately one year or less if
12 the illness runs its normal course.

13 54. "Warehouse" means and includes a place in which cannabis products
14 are securely housed or stored.

15 55. "Wholesale" means to solicit or receive an order for, to keep or
16 expose for sale, and to keep with intent to sell, made by any licensed
17 person, whether principal, proprietor, agent, or employee of any adult-
18 use, medical-use cannabis or cannabis product, or cannabinoid hemp and
19 hemp extract product for purposes of resale.

20 ARTICLE 2

21 NEW YORK STATE CANNABIS CONTROL BOARD

22 Section 7. Establishment of the cannabis control board or "board".

23 8. Establishment of an office of cannabis management.

24 9. Executive director.

25 10. Powers and duties of the cannabis control board.

26 11. Functions, powers and duties of the executive director;
27 office of cannabis control.

28 12. Chief equity officer.

29 13. Rulemaking authority.

30 14. State cannabis advisory board.

31 15. Disposition of moneys received for license fees.

32 16. Violations of cannabis laws or regulations; penalties and
33 injunctions.

34 17. Formal hearings; notice and procedure.

35 18. Ethics, transparency and accountability.

36 § 7. Establishment of the cannabis control board or "board". 1. The
37 cannabis control board is hereby created and shall consist of a chair-
38 person nominated by the governor and with the advice and consent of the
39 senate, with one vote, and four other voting board members as provided
40 for in subdivision two of this section. In addition, the commissioners
41 of the departments of environmental conservation, health, agriculture
42 and markets, taxation and finance, the superintendent of financial
43 services, and the director of the office of addiction services and
44 supports or their designees shall serve as ex-officio members in an
45 advisory capacity.

46 2. Appointments. The governor shall have three appointments with the
47 advice and consent of the senate, the temporary president of the senate
48 and the speaker of the assembly shall each have one appointment to the
49 board. Appointments shall be for a term of three years each and shall be
50 geographically and demographically representative of the state and
51 communities historically affected by the war on drugs. Board members
52 shall be citizens and permanent residents of this state. The chairperson
53 and the remaining members of such board shall continue to serve as
54 chairperson and members of the board until the expiration of the respec-

1 tive terms for which they were appointed. Upon the expiration of such
2 respective terms the successors of such chairperson and members shall be
3 appointed to serve for a term of three years each and until their
4 successors have been appointed and qualified. The members shall when
5 performing the work of the board, be compensated at a rate of two
6 hundred sixty dollars per day, and together with an allowance for actual
7 and necessary expenses incurred in the discharge of their duties. No
8 member or member's spouse or minor child shall have any interest in an
9 entity regulated by the board.

10 3. Expenses. Each member of the board shall be entitled to their
11 expenses actually and necessarily incurred by them in the performance of
12 their duties.

13 4. Removal. Any member of the board may be removed by the governor for
14 good cause after notice and an opportunity to be heard. A statement of
15 the good cause for their removal shall be filed by the governor in the
16 office of the secretary of state.

17 5. Vacancies; quorum. (A) In the event of a vacancy caused by the
18 death, resignation, removal or inability to perform his or her duties of
19 any board member, the vacancy shall be filled in the manner as the
20 original appointment for the remainder of the unexpired term.

21 (B)(i) In the event of a vacancy caused by the death, resignation,
22 removal, or inability to act of the chair, the vacancy shall be filled
23 in the same manner as the original appointment for the remainder of the
24 unexpired term. Notwithstanding any other provision of law to the
25 contrary, the governor shall designate one of the remaining board
26 members to serve as acting chairperson for a period not to exceed six
27 months or until a successor chairperson has been confirmed by the
28 senate. Upon the expiration of the six month term, if the governor has
29 nominated a successor chairperson, but the senate has not acted upon the
30 nomination, the acting chairperson can continue to serve as acting
31 chairperson for an additional ninety days or until the governor's
32 successor chairperson nomination is confirmed by the senate, whichever
33 comes first;

34 (ii) The governor shall provide immediate written notice to the tempo-
35 rary president of the senate and the speaker of the assembly of the
36 designation of a board member as acting chairperson;

37 (iii) If (a) the governor has not nominated a successor chairperson
38 upon the expiration of the six month term or (b) the senate does not
39 confirm the governor's successor nomination within the additional ninety
40 days, the board member designated as acting chairperson shall no longer
41 be able to serve as acting chairperson and the governor is prohibited
42 from extending the powers of that acting chairperson or from designating
43 another board member to serve as acting chairperson; and

44 (iv) A board member serving as the acting chairperson of the cannabis
45 control board shall be deemed a state officer for purposes of section
46 seventy-three of the public officers law.

47 (C) A majority of the voting board members of the board shall consti-
48 tute a quorum for the purpose of conducting the business thereof and a
49 majority vote of all the members in office shall be necessary for
50 action. Provided, however, that a board member designated as an acting
51 chairperson pursuant to this chapter shall have only one vote for
52 purposes of conducting the business of the cannabis control board.

53 6. Officers; employees; offices. (A) The board shall have power to
54 appoint any necessary deputies, counsels, assistants, investigators, and
55 other employees within the limits provided by appropriation. Investi-
56 gators so employed by the board shall be deemed to be peace officers

1 only for the purpose of enforcing the provisions of the cannabis law or
2 judgments or orders obtained for violation thereof, with all the powers
3 set forth in section 2.20 of the criminal procedure law. The counsel,
4 secretary, chief executive officer, assistant chief executive officers,
5 chief equity officer, confidential secretaries to board members and
6 deputies shall be in the exempt class of the civil service. The other
7 assistants, investigators and employees of the office of cannabis
8 management shall all be in the competitive class of the civil service
9 and shall be considered for purposes of article fourteen of the civil
10 service law to be public employees in the civil service of the state,
11 and shall be assigned to the appropriate collective bargaining unit.
12 Employees serving in positions in newly created titles shall be assigned
13 to the same collective bargaining units as they would have been assigned
14 to were such titles created prior to the establishment of the office of
15 cannabis management by this chapter.

16 The cannabis control board and office of cannabis management shall
17 have its principal office in the city of Albany, and maintain branch
18 offices in the cities of New York and Buffalo and such other places as
19 it may deem necessary.

20 (B) The board shall establish appropriate procedures to ensure that
21 hearing officers are shielded from ex parte communications with alleged
22 violators and their attorneys and from other employees of the office of
23 cannabis management and shall take such other steps as it shall deem
24 necessary and proper to shield its judicial processes from unwarranted
25 and inappropriate communications and attempts to influence.

26 7. Disqualification of members of the board and employees of the
27 office of cannabis management. No member of the board or any officer,
28 deputy, assistant, inspector or employee or spouse or minor child there-
29 of shall have any interest, direct or indirect, either proprietary or by
30 means of any loan, mortgage or lien, or in any other manner, in or on
31 any premises where cannabis is manufactured or sold; nor shall they have
32 any interest, direct or indirect, in any business wholly or partially
33 devoted to the cultivation, manufacture, distribution, sale, transporta-
34 tion or storage of cannabis, or own any stock in any corporation which
35 has any interest, proprietary or otherwise, direct or indirect, in any
36 premises where cannabis or hemp extract is cultivated or manufactured,
37 distributed, or sold, or in any business wholly or partially devoted to
38 the cultivation, manufacture, distribution, sale, transportation or
39 storage of cannabis or hemp extract or receive any commission or profit
40 whatsoever, direct or indirect, from any person applying for or receiv-
41 ing any license or permit provided for in this chapter, or hold any
42 other public office in the state or in any political subdivision except
43 upon the written permission of the board, such member of the board or
44 office of cannabis management or officer, deputy, assistant, inspector
45 or employee thereof may hold the public office of notary public or
46 member of a community board of education in the city school district of
47 the city of New York. Anyone who violates any of the provisions of this
48 section shall be removed.

49 § 8. Establishment of an office of cannabis management. There is here-
50 by established, within the division of alcoholic beverage control, an
51 independent office of cannabis management, which shall have exclusive
52 jurisdiction to exercise the powers and duties provided by this chapter.
53 The office shall exercise its authority by and through an executive
54 director.

55 § 9. Executive director. The office shall exercise its authority,
56 other than powers and duties specifically granted to the board, by and

1 through an executive director nominated by the governor and confirmed by
2 the senate. The executive director shall serve for a term of three
3 years and once confirmed, may only be removed for good cause with appro-
4 priate notice. The executive director of the state office of cannabis
5 management shall receive an annual salary not to exceed an amount appro-
6 priated therefor by the legislature and his or her expenses actually and
7 necessarily incurred in the performance of his or her official duties,
8 unless otherwise provided by the legislature.

9 § 10. Powers and duties of the cannabis control board. The cannabis
10 control board or "board" shall have the following functions, powers and
11 duties as provided for in this chapter:

12 1. Sole discretion to issue or refuse to issue any registration,
13 license or permit provided for in this chapter.

14 2. Sole discretion to limit, or not to limit, the number of registra-
15 tions, licenses and permits of each class to be issued within the state
16 or any political subdivision thereof, in a manner that prioritizes
17 social and economic equity applicants with the goal of fifty percent
18 awarded to such applicants, and considers small business opportunities
19 and concerns, avoids market dominance in sectors of the industry, and
20 reflects the demographics of the state.

21 3. Sole discretion to revoke, cancel or suspend for cause any regis-
22 tration, license, or permit issued under this chapter and/or to impose a
23 civil penalty for cause, after notice and an opportunity for a hearing,
24 against any holder of a registration, license, or permit issued pursuant
25 to this chapter.

26 4. To fix by rule and regulation the standards of cultivation and
27 processing of medical cannabis, adult use cannabis and cannabis product,
28 and cannabinoid hemp and hemp extract, including but not limited to, the
29 ability to regulate potency and the types of products which may be manu-
30 factured and/or processed, in order to ensure the health and safety of
31 the public and the use of proper ingredients and methods in the manufac-
32 ture of all medical, adult-use, cannabinoid hemp and hemp extract to be
33 sold or consumed in the state.

34 5. To limit or prohibit, at any time of public emergency and without
35 previous notice or advertisement, the cultivation, processing, distrib-
36 ution or sale of any or all cannabis products, medical cannabis or
37 cannabinoid hemp and hemp extract, for and during the period of such
38 emergency.

39 6. To hold hearings, subpoena witnesses, compel their attendance,
40 administer oaths, to examine any person under oath and in connection
41 therewith to require the production of any books or records relative to
42 the inquiry. A subpoena issued under this section shall be regulated by
43 the civil practice law and rules.

44 7. To appoint any necessary directors, deputies, counsels, assistants,
45 investigators, and other employees within the limits provided by appro-
46 priation. Directors, deputies and counsels shall be in the exempt class
47 of the civil service. The other assistants, investigators and employees
48 of the office shall all be in the competitive class of the civil service
49 and shall be considered for purposes of article fourteen of the civil
50 service law to be public employees of the state, and shall be assigned
51 to the appropriate bargaining unit. Investigators so employed by the
52 office shall be deemed to be peace officers only for the purposes of
53 enforcing the provisions of this chapter or judgments or orders obtained
54 for violation thereof, with all the powers set forth in section 2.20 of
55 the criminal procedure law. Employees transferred to the office shall be
56 transferred without further examination or qualification to the same or

1 similar titles and shall remain in the same collective bargaining units
2 and shall retain their respective civil service classifications, status
3 and rights pursuant to their collective bargaining units and collective
4 bargaining agreements. Employees serving in positions in newly created
5 titles shall be assigned to the appropriate collective bargaining unit
6 as they would have been assigned to were such titles created prior to
7 the establishment of the office of cannabis management. Any action
8 taken under this subdivision shall be subject to and in accordance with
9 the civil service law.

10 8. To inspect or provide authorization for the inspection at any time
11 of any premises where medical cannabis, adult-use cannabis or cannabi-
12 noid hemp and hemp extract is cultivated, processed, stored, distributed
13 or sold.

14 9. To prescribe forms of applications for registrations, licenses and
15 permits under this chapter and of all reports deemed necessary by the
16 board.

17 10. To appoint such advisory groups and committees as deemed necessary
18 to provide assistance to the board to carry out the purposes and objec-
19 tives of this chapter.

20 11. To exercise the powers and perform the duties in relation to the
21 administration of the board and the office of cannabis management as are
22 necessary but not specifically vested by this chapter, including but not
23 limited to budgetary and fiscal matters.

24 12. To develop and establish minimum criteria for certifying employees
25 to work in the cannabis industry in positions requiring advanced train-
26 ing and education.

27 13. To enter into contracts, memoranda of understanding, and agree-
28 ments as deemed appropriate to effectuate the policy and purpose of this
29 chapter.

30 14. To advise the urban development corporation in making low interest
31 or zero-interest loans to qualified social and economic equity appli-
32 cants as provided for in this chapter.

33 15. If public health, safety, or welfare imperatively requires emer-
34 gency action, and incorporates a finding to that effect in an order,
35 summary suspension of a license may be ordered, effective on the date
36 specified in such order or upon service of a certified copy of such
37 order on the licensee, whichever shall be later, pending proceedings for
38 revocation or other action. These proceedings shall be promptly insti-
39 tuted and determined. In addition, the board may be directed to order
40 the administrative seizure of product, issue a stop order, or take any
41 other action necessary to effectuate and enforce the policy and purpose
42 of this chapter.

43 16. To draft and provide for public comment and issue regulations,
44 declaratory rulings, guidance and industry advisories.

45 17. To draft and provide an annual report on the effectiveness of this
46 chapter no later than January first, two thousand twenty-three and annu-
47 ally thereafter. The annual report shall be prepared, in consultation
48 with the division of the budget, the urban development corporation, the
49 department of taxation and finance, the department of health, department
50 of agriculture and markets, office of addiction services and supports,
51 office of mental health, New York state police and the division of crim-
52 inal justice services. The report shall provide, but not be limited to,
53 the following information:

54 (a) the number of registrations, licenses, and permits applied for by
55 geographic region of the state; the number of registrations, licenses,
56 and permits approved or denied by geographic region of the state;

1 (b) the economic and fiscal impacts associated with this chapter,
2 including revenue from licensing or other fees, fines and taxation
3 related to the cultivation, distribution and sale of cannabis for
4 medical and adult-use and cannabinoid hemp and hemp extract in this
5 state;

6 (c) specific programs and progress made by the cannabis control board
7 and the office of cannabis management in achieving the goals of the
8 social and economic equity plan, and other social justice goals includ-
9 ing, but not limited to, restorative justice, minority- and women-owned
10 businesses, disadvantaged farmers business and service disabled veter-
11 ans;

12 (d) collect demographic data on owners and employees in the medical
13 cannabis, adult-use cannabis and cannabinoid hemp and hemp extract
14 industry;

15 (e) impacts to public health and safety, including substance use
16 disorder;

17 (f) impacts associated with public safety, including, but not limited
18 to, traffic-related issues, law enforcement, under-age prevention in
19 relation to accessing adult-use cannabis, and efforts to eliminate the
20 illegal market for cannabis products in New York; and

21 (g) any other information or data deemed significant.

22 18. The board shall make recommendations regarding the appropriate
23 level of taxation of adult-use cannabis, as well as changes necessary
24 to: improve registration, licensing and permitting; promoting and
25 encouraging social and economic equity applicants; improve and protect
26 the public health and safety of New Yorkers; improve access and avail-
27 ability for substance abuse treatment programs; and any other recommen-
28 dations deemed necessary and appropriate. Such report shall be presented
29 to the governor, the majority leader of the senate and the speaker of
30 the assembly, no later than January first, two thousand twenty-three and
31 annually thereafter.

32 § 11. Functions, powers and duties of the executive director; office
33 of cannabis management. The executive director, as authorized by and
34 through this chapter, shall have the following functions, powers and
35 duties as provided for in this chapter:

36 1. To exercise the powers and perform the duties in relation to the
37 administration of the office of cannabis management as are not specif-
38 ically vested by this chapter in the cannabis control board.

39 2. To keep records in such form as he or she may prescribe of all
40 registrations, licenses and permits issued and revoked within the state;
41 such records shall be so kept as to provide ready information as to the
42 identity of all licensees including the names of the officers and direc-
43 tors of corporate licensees and the location of all licensed premises.
44 The executive director may contract to furnish copies of the records of
45 licenses and permits of each class and type issued within the state or
46 any political subdivision thereof, for any license or permit year or
47 term of years not exceeding five years.

48 3. To inspect or provide for the inspection of any premises where
49 medical cannabis, adult-use cannabis, hemp cannabis are manufactured or
50 sold.

51 4. To prescribe forms of applications for licenses and permits under
52 this chapter and of all reports deemed necessary by the board.

53 5. As authorized by the board, to inspect or provide for the
54 inspection of any licensed or permitted premises where medical, adult-
55 use or hemp is cultivated, processed, stored, distributed or sold.

1 6. To prescribe forms of applications for registrations, licenses and
2 permits under this chapter and of all reports deemed necessary by the
3 board.

4 7. To delegate the powers provided in this section to such other offi-
5 cers or employees as may be deemed appropriate by the executive direc-
6 tor.

7 8. To exercise the powers and perform the duties as delegated by the
8 board in relation to the administration of the office as are necessary,
9 including but not limited to budgetary and fiscal matters.

10 9. To enter into contracts, memoranda of understanding, and agreements
11 on the recommendation of the executive director and as authorized by the
12 board to effectuate the policy and purpose of this chapter.

13 10. To advise and assist the board in carrying out any of its func-
14 tions, powers and duties.

15 § 12. Chief equity officer. The chief equity officer shall be nomi-
16 nated by the governor and confirmed by the senate. The chief equity
17 officer shall receive an annual salary not to exceed an amount appropri-
18 ated therefor by the legislature and their expenses actually and neces-
19 sarily incurred in the performance of official duties, unless otherwise
20 provided by the legislature.

21 1. The chief equity officer shall assist with the development and
22 implementation of, and ensure the cannabis control board and the office
23 of cannabis management's continued compliance with, the social and
24 economic equity plan, required to be developed pursuant to article four
25 of this chapter.

26 2. The chief equity officer shall establish public education program-
27 ming dedicated to providing communities that have been impacted by
28 cannabis prohibition with information detailing the licensing process
29 and informing individuals of the support and resources that the office
30 can provide to individuals and entities interested in participating in
31 activity licensed under this chapter.

32 3. The chief equity officer shall provide a report to the legislature,
33 no later than January first, two thousand twenty-three, and annually
34 thereafter, of their activities in ensuring compliance with the social
35 and economic equity plan, required to be developed pursuant to article
36 four of this chapter.

37 § 13. Rulemaking authority. 1. The board shall perform such acts,
38 prescribe such forms and propose such rules, regulations and orders as
39 it may deem necessary or proper to fully effectuate the provisions of
40 this chapter.

41 2. The board shall, in consultation with the executive director, the
42 chief equity officer and the state cannabis advisory board, have the
43 authority to promulgate any and all necessary rules and regulations
44 governing the cultivation, manufacture, processing, transportation,
45 distribution, testing, delivery, and sale of medical cannabis, adult-use
46 cannabis, and cannabinoid hemp and hemp extract, including but not
47 limited to the registration of organizations authorized to sell medical
48 cannabis, the licensing and/or permitting of adult-use cannabis cultiva-
49 tors, processors, cooperatives, microbusiness, distributors, laborato-
50 ries, and retailers, and the licensing of cannabinoid hemp and hemp
51 extract producers and processors pursuant to this chapter, including,
52 but not limited to:

53 (a) prescribing forms and establishing application, reinstatement, and
54 renewal fees;

55 (b) the qualifications and selection criteria for registration,
56 licensing, or permitting;

1 (c) the books and records to be created and maintained by all regis-
2 tered organizations, licensees, and permittees, including the reports to
3 be made thereon to the office, and inspection of any and all books and
4 records maintained by any registered organization, licensee, or permit-
5 tee and on the premise of any registered organization, licensee, or
6 permittee;

7 (d) methods of producing, processing, and packaging cannabis, medical
8 cannabis, cannabis-infused products, concentrated cannabis, and cannabi-
9 noid hemp and hemp extract; conditions of sanitation, and standards of
10 ingredients, quality, and identity of cannabis products cultivated,
11 processed, packaged, or sold by any registered organizations and licen-
12 sees;

13 (e) security requirements for medical cannabis and adult-use cannabis
14 retail dispensaries and premises where cannabis products, medical canna-
15 bis, and cannabinoid hemp and hemp extract, are cultivated, produced,
16 processed, or stored, and safety protocols for registered organizations,
17 licensees and their employees; and

18 (f) hearing procedures and additional causes for cancellation, suspen-
19 sion, revocation, and/or civil penalties against any person registered,
20 licensed, or permitted by the authority.

21 3. The board, in consultation with the state cannabis advisory board,
22 shall promulgate rules and regulations that are designed to:

23 (a) prevent the distribution of adult-use cannabis or cannabis product
24 to persons under twenty-one years of age, including the modification of
25 tobacco vaping products for use with cannabis;

26 (b) prevent the revenue from the sale of cannabis from going to crimi-
27 nal enterprises;

28 (c) prevent the diversion of cannabis from this state to other states;

29 (d) prevent cannabis, hemp, cannabinoid hemp and hemp extract activity
30 that is legal under state law from being used as a cover or pretext for
31 the trafficking of other illegal drugs or other illegal activity;

32 (e) prevent driving while impaired and the exacerbation of other
33 adverse public health consequences associated with the use of cannabis;

34 (f) prevent the growing of cannabis on public lands; and

35 (g) inform the public about the prohibition on the possession and use
36 of cannabis on federal property.

37 4. The board, in consultation with the department of agriculture and
38 markets and the department of environmental conservation, shall promul-
39 gate necessary rules and regulations governing the safe production of
40 cannabis, including environmental and energy standards and restrictions
41 on the use of pesticides and best practices for water and energy conser-
42 vation.

43 5. Emergency rules and regulations: In adopting any emergency rule,
44 the board shall comply with the provisions of subdivision six of section
45 two hundred two of the state administrative procedure act and subdivi-
46 sion three of section one hundred one-a of the executive law; provided,
47 however, that notwithstanding the provisions of such laws:

48 (a) Such emergency rule may remain in effect for no longer than one
49 hundred twenty days, unless within such time the board complies with the
50 provisions of such laws and adopts the rule as a permanent rule;

51 (b) If, prior to the expiration of a rule adopted pursuant to this
52 paragraph, the board finds that the readoption of such rule on an emer-
53 gency basis or the adoption of a substantially similar rule on an emer-
54 gency basis is necessary for the preservation of the public health,
55 safety or general welfare the agency may only readopt the rule on an
56 emergency basis or adopt a substantially similar rule on an emergency

1 basis if on or before the date of such action the board has also submit-
2 ted a notice of proposed rule making pursuant to subdivision six of
3 section two hundred two of the state administrative procedure act and
4 subdivision three of section one hundred one-a of the executive law. An
5 emergency rule adopted pursuant to this paragraph may remain in effect
6 for no longer than one hundred twenty days;

7 (c) An emergency rule adopted pursuant to this subdivision or a
8 substantially similar rule may be adopted on an emergency basis may
9 remain in effect for no longer than one hundred twenty days, but upon
10 the expiration of such one hundred twenty-day period no further
11 readoptions or adoptions of substantially similar rules shall be permit-
12 ted for a period of one hundred twenty days. Nothing in this subdivi-
13 sion shall preclude the adoption of such rule by submitting a notice of
14 adoption pursuant to subdivision five of section two hundred two of the
15 state administrative procedure act.

16 (d) Strict compliance with the provisions of this subdivision shall be
17 required, and any emergency rule or substantially similar rule that does
18 not so comply shall be void and of no legal effect.

19 § 14. State cannabis advisory board. 1. The state cannabis advisory
20 board or "advisory board" is established within the office of cannabis
21 management and directed to work in collaboration with the cannabis
22 control board and the executive director to regulate and control the use
23 of medical cannabis, adult-use cannabis and cannabinoid hemp and hemp
24 extract in the state of New York.

25 2. The state cannabis advisory board, shall consist of thirteen voting
26 appointed members, along with the commissioners of environmental conser-
27 vation, health, agriculture and markets and addiction services and
28 supports serving as ex-officio members. The governor shall have seven
29 appointments, the temporary president of the senate and the speaker of
30 the assembly shall each have three appointments to the board. The
31 members shall be appointed to each serve three year terms and in the
32 event of a vacancy, the vacancy shall be filled in the manner of the
33 original appointment for the remainder of the term. The appointed
34 members and commissioners shall receive no compensation for their
35 services but shall be allowed their actual and necessary expenses
36 incurred in the performance of their duties as board members.

37 3. Advisory board members shall have statewide geographic represen-
38 tation that is balanced and diverse in its composition. Appointed
39 members shall have an expertise in public and behavioral health,
40 substance use disorder treatment, effective rehabilitative treatment for
41 adults and juveniles, economic development, environmental conservation,
42 job training and placement, criminal justice, and drug policy. Further,
43 the advisory board shall include residents from communities most
44 impacted by cannabis prohibition, people with prior drug convictions,
45 the formerly incarcerated, and representatives of organizations serving
46 communities impacted by past federal and state drug policies.

47 4. The chairperson of the advisory board and the vice chairperson
48 shall be elected from among the members of the advisory board by the
49 members of such advisory board. The vice chairperson shall represent the
50 advisory board in the absence of the chairperson at all official advi-
51 sory board functions.

52 5. The advisory board shall work in collaboration with the cannabis
53 control board and the executive director prior to the adoption of any
54 rules and regulations governing the medical cannabis, adult-use cannabis
55 or cannabinoid hemp and hemp extract industries. The advisory board
56 shall also make recommendations to the cannabis control board, the

1 office and the legislature on cannabis and hemp cultivation, processing,
2 distribution, transport, social and economic equity in the cannabis and
3 hemp industries, criminal justice, public health and safety concerns,
4 law enforcement related to cannabis and cannabis products, and on the
5 testing and sale of cannabis and cannabis products.

6 § 15. Disposition of moneys received for license fees. The board
7 shall establish a scale of application, licensing, and renewal fees,
8 based upon the cost of enforcing this chapter and the size of the canna-
9 bis business being licensed, as follows:

10 1. The board shall charge each registered organization, licensee and
11 permittee a registration, licensure or permit fee, and renewal fee, as
12 applicable. The fees may vary depending upon the nature and scope of
13 the different registration, licensure and permit activities.

14 2. The total fees assessed pursuant to this chapter shall be set at an
15 amount that will generate sufficient total revenue to, at a minimum,
16 fully cover the total costs of administering this chapter.

17 3. All registration and licensure fees shall be set on a scaled basis
18 by the board, dependent on the size and capacity of the business and for
19 social and economic equity applicants such fees may be assessed to
20 accomplish the goals of this chapter.

21 4. The board shall deposit all fees collected in the New York state
22 cannabis revenue fund established pursuant to section ninety-nine-ii of
23 the state finance law.

24 § 16. Violations of cannabis laws or regulations; penalties and
25 injunctions. 1. Any person who violates, disobeys or disregards any term
26 or provision of this chapter or of any lawful notice, order or regu-
27 lation pursuant thereto for which a civil or criminal penalty is not
28 otherwise expressly prescribed by law, shall be liable to the people of
29 the state for a civil penalty of not to exceed five thousand dollars for
30 every such violation.

31 2. The penalty provided for in subdivision one of this section may be
32 recovered by an action brought by the board in any court of competent
33 jurisdiction.

34 3. Such civil penalty may be released or compromised by the board
35 before the matter has been referred to the attorney general, and where
36 such matter has been referred to the attorney general, any such penalty
37 may be released or compromised and any action commenced to recover the
38 same may be settled and discontinued by the attorney general with the
39 consent of the board.

40 4. It shall be the duty of the attorney general upon the request of
41 the board to bring an action for an injunction against any person who
42 violates, disobeys or disregards any term or provision of this chapter
43 or of any lawful notice, order or regulation pursuant thereto; provided,
44 however, that the executive director shall furnish the attorney general
45 with such material, evidentiary matter or proof as may be requested by
46 the attorney general for the prosecution of such an action.

47 5. It is the purpose of this section to provide additional and cumula-
48 tive remedies, and nothing herein contained shall abridge or alter
49 rights of action or remedies now or hereafter existing, nor shall any
50 provision of this section, nor any action done by virtue of this
51 section, be construed as estopping the state, persons or municipalities
52 in the exercising of their respective rights.

53 § 17. Formal hearings; notice and procedure. 1. The board, or any
54 person designated by them for this purpose, may issue subpoenas and
55 administer oaths in connection with any hearing or investigation under
56 or pursuant to this chapter, and it shall be the duty of the board and

1 any persons designated by them for such purpose to issue subpoenas at
2 the request of and upon behalf of the respondent.

3 2. The board and those designated by them shall not be bound by the
4 laws of evidence in the conduct of hearing proceedings, but the determi-
5 nation shall be founded upon preponderance of evidence to sustain it.

6 3. Notice and right of hearing as provided in the state administrative
7 procedure act, shall be served at least fifteen days prior to the date
8 of the hearing, provided that, whenever because of danger to the public
9 health, safety or welfare it appears prejudicial to the interests of the
10 people of the state to delay action for fifteen days, the board may
11 serve the respondent with an order requiring certain action or the
12 cessation of certain activities immediately or within a specified period
13 of less than fifteen days.

14 4. Service of notice of hearing or order shall be made by personal
15 service or by registered or certified mail. Where service, whether by
16 personal service or by registered or certified mail, is made upon an
17 incompetent, partnership, or corporation, it shall be made upon the
18 person or persons designated to receive personal service by article
19 three of the civil practice law and rules.

20 5. At a hearing, that to the greatest extent practicable shall be
21 reasonably near the respondent, the respondent may appear personally,
22 shall have the right of counsel, and may cross-examine witnesses against
23 him or her and produce evidence and witnesses in his or her behalf.

24 6. Following a hearing, the board may make appropriate determinations
25 and issue a final order in accordance therewith.

26 7. The board may adopt, amend and repeal administrative rules and
27 regulations governing the procedures to be followed with respect to
28 hearings, such rules to be consistent with the policy and purpose of
29 this chapter and the effective and fair enforcement of its provisions.

30 8. The provisions of this section shall be applicable to all hearings
31 held pursuant to this chapter, except where other provisions of this
32 chapter applicable thereto are inconsistent therewith, in which event
33 such other provisions shall apply.

34 § 18. Ethics, transparency and accountability. No member of the board
35 or office or any officer, deputy, assistant, inspector or employee, or
36 spouse or minor child of such member, officer, assistant, inspector or
37 employee thereof shall have any interest, direct or indirect, either
38 proprietary or by means of any loan, mortgage or lien, or in any other
39 manner, in or on any premises where adult-use cannabis, medical cannabis
40 or cannabinoid hemp and hemp extract is cultivated, processed, distrib-
41 uted or sold; nor shall he or she have any interest, direct or indirect,
42 in any business wholly or partially devoted to the cultivation, process-
43 ing, distribution, sale, transportation or storage of adult-use canna-
44 bis, medical cannabis or cannabinoid hemp and hemp extract, or own any
45 stock in any corporation which has any interest, proprietary or other-
46 wise, direct or indirect, in any premises where adult use cannabis,
47 medical cannabis or cannabinoid hemp and hemp extract is cultivated,
48 processed, distributed or sold, or in any business wholly or partially
49 devoted to the cultivation, processing, distribution, sale, transporta-
50 tion or storage of adult-use cannabis, medical cannabis or cannabinoid
51 hemp and hemp extract, or receive any commission or profit whatsoever,
52 direct or indirect, from any person applying for or receiving any
53 license or permit provided for in this chapter, or hold any other
54 elected or appointed public office in the state or in any political
55 subdivision. After notice and opportunity to be heard, anyone found to
56 have knowingly violated any of the provisions of this section shall,

1 after notice, be removed and shall divest themselves of such direct or
2 indirect interests, in addition to any other penalty provided by law.

3 ARTICLE 3
4 MEDICAL CANNABIS

5 Section 30. Certification of patients.

- 6 31. Lawful medical use.
- 7 32. Registry identification cards.
- 8 33. Registration as a designated caregiver facility.
- 9 34. Registered organizations.
- 10 35. Registering of registered organizations.
- 11 36. Reports of registered organizations.
- 12 37. Evaluation; research programs; report by board.
- 13 38. Cannabis research license.
- 14 39. Registered organizations and adult-use cannabis.
- 15 40. Relation to other laws.
- 16 41. Home cultivation of medical cannabis.
- 17 42. Protections for the medical use of cannabis.
- 18 43. Regulations.
- 19 44. Suspend; terminate.
- 20 45. Pricing.

21 § 30. Certification of patients. 1. A patient certification may only
22 be issued if:

- 23 (a) the patient has a condition, which shall be specified in the
- 24 patient's health care record;
- 25 (b) the practitioner by training or experience is qualified to treat
- 26 the condition;
- 27 (c) the patient is under the practitioner's continuing care for the
- 28 condition; and
- 29 (d) in the practitioner's professional opinion and review of past
- 30 treatments, the patient is likely to receive therapeutic or palliative
- 31 benefit from the primary or adjunctive treatment with medical use of
- 32 cannabis for the condition.

33 2. The certification shall include: (a) the name, date of birth and
34 address of the patient; (b) a statement that the patient has a condition
35 and the patient is under the practitioner's care for the condition; (c)
36 a statement attesting that all requirements of subdivision one of this
37 section have been satisfied; (d) the date; and (e) the name, address,
38 telephone number, and the signature of the certifying practitioner. The
39 board may require by regulation that the certification shall be on a
40 form provided by the office. The practitioner may state in the certifi-
41 cation that, in the practitioner's professional opinion, the patient
42 would benefit from medical cannabis only until a specified date. The
43 practitioner may state in the certification that, in the practitioner's
44 professional opinion, the patient is terminally ill and that the certifi-
45 cation shall not expire until the patient dies.

46 3. In making a certification, the practitioner may consider the form
47 of medical cannabis the patient should consume, including the method of
48 consumption and any particular strain, variety, and quantity or percent-
49 age of cannabis or particular active ingredient, and appropriate dosage.
50 The practitioner may state in the certification any recommendation or
51 limitation the practitioner makes, in his or her professional opinion,
52 concerning the appropriate form or forms of medical cannabis and dosage.

53 4. Every practitioner shall consult the prescription monitoring
54 program registry prior to making or issuing a certification, for the

1 purpose of reviewing a patient's controlled substance history. For
2 purposes of this section, a practitioner may authorize a designee to
3 consult the prescription monitoring program registry on his or her
4 behalf, provided that such designation is in accordance with section
5 thirty-three hundred forty-three-a of the public health law.

6 5. The practitioner shall give the certification to the certified
7 patient, and place a copy in the patient's health care record.

8 6. No practitioner shall issue a certification under this section for
9 themselves.

10 7. A registry identification card based on a certification shall
11 expire one year after the date the certification is signed by the prac-
12 titioner, except as provided for in subdivision eight of this section.

13 8. (a) If the practitioner states in the certification that, in the
14 practitioner's professional opinion, the patient would benefit from
15 medical cannabis only until a specified earlier date, then the registry
16 identification card shall expire on that date; (b) if the practitioner
17 states in the certification that in the practitioner's professional
18 opinion the patient is terminally ill and that the certification shall
19 not expire until the patient dies, then the registry identification card
20 shall state that the patient is terminally ill and that the registration
21 card shall not expire until the patient dies; (c) if the practitioner
22 re-issues the certification to terminate the certification on an earlier
23 date, then the registry identification card shall expire on that date
24 and shall be promptly destroyed by the certified patient; (d) if the
25 certification so provides, the registry identification card shall state
26 any recommendation or limitation by the practitioner as to the form or
27 forms of medical cannabis or dosage for the certified patient; and (e)
28 the board shall make regulations to implement this subdivision.

29 9. (a) A certification may be a special certification if, in addition
30 to the other requirements for a certification, the practitioner certi-
31 fies in the certification that the patient's condition is progressive
32 and degenerative or that delay in the patient's certified medical use of
33 cannabis poses a risk to the patient's life or health.

34 (b) The office shall create the form to be used for a special certif-
35 ication and shall make that form available to be downloaded from the
36 office's website.

37 10. Prior to issuing a certification a practitioner must complete, at
38 a minimum, a two-hour course as determined by the board in regulation.
39 For the purposes of this article a person's status as a practitioner is
40 deemed to be a "license" for the purposes of section thirty-three
41 hundred ninety of the public health law and shall be subject to the same
42 revocation process.

43 § 31. Lawful medical use. The possession, acquisition, use, delivery,
44 transfer, transportation, or administration of medical cannabis by a
45 certified patient, designated caregiver or the employees of a designated
46 caregiver facility, for certified medical use, shall be lawful under
47 this article provided that:

48 1. the cannabis that may be possessed by a certified patient shall not
49 exceed a sixty-day supply of the dosage if determined by the practition-
50 er, consistent with any guidance and regulations issued by the board,
51 provided that during the last seven days of any sixty-day period, the
52 certified patient may also possess up to such amount for the next
53 sixty-day period;

54 2. the cannabis that may be possessed by designated caregivers does
55 not exceed the quantities referred to in subdivision one of this section

1 for each certified patient for whom the caregiver possesses a valid
2 registry identification card, up to five certified patients;

3 3. the cannabis that may be possessed by designated caregiver facili-
4 ties does not exceed the quantities referred to in subdivision one of
5 this section for each certified patient under the care or treatment of
6 the facility;

7 4. the form or forms of medical cannabis that may be possessed by the
8 certified patient, designated caregiver or designated caregiver facility
9 pursuant to a certification shall be in compliance with any recommenda-
10 tion or limitation by the practitioner as to the form or forms of
11 medical cannabis or dosage for the certified patient in the certifi-
12 cation;

13 5. the medical cannabis shall be kept in the original package in which
14 it was dispensed under this article, except for the portion removed for
15 immediate consumption for certified medical use by the certified
16 patient; and

17 6. in the case of a designated caregiver facility, the employee
18 assisting the patient has been designated as such by the designated
19 caregiver facility.

20 § 32. Registry identification cards. 1. Upon approval of the certifi-
21 cation, the office shall issue registry identification cards for certi-
22 fied patients and designated caregivers. A registry identification card
23 shall expire as provided in this article or as otherwise provided in
24 this section. The office shall begin issuing registry identification
25 cards as soon as practicable after the certifications required by this
26 chapter are granted. The office may specify a form for a registry appli-
27 cation, in which case the office shall provide the form on request,
28 reproductions of the form may be used, and the form shall be available
29 for downloading from the board's or office's website.

30 2. To obtain, amend or renew a registry identification card, a certi-
31 fied patient or designated caregiver shall file a registry application
32 with the office, unless otherwise exempted by the board in regulation.
33 The registry application or renewal application shall include:

34 (a) in the case of a certified patient:

35 (i) the patient's certification, a new written certification shall be
36 provided with a renewal application;

37 (ii) the name, address, and date of birth of the patient;

38 (iii) the date of the certification;

39 (iv) if the patient has a registry identification card based on a
40 current valid certification, the registry identification number and
41 expiration date of that registry identification card;

42 (v) the specified date until which the patient would benefit from
43 medical cannabis, if the certification states such a date;

44 (vi) the name, address, and telephone number of the certifying practi-
45 tioner;

46 (vii) any recommendation or limitation by the practitioner as to the
47 form or forms of medical cannabis or dosage for the certified patient;

48 (viii) if the certified patient designates a designated caregiver, the
49 name, address, and date of birth of the designated caregiver, and other
50 individual identifying information required by the board;

51 (ix) if the designated caregiver is a cannabis research license holder
52 under this chapter, the name of the organization conducting the
53 research, the address, phone number, name of the individual leading the
54 research or appropriate designee, and other identifying information
55 required by the board; and

56 (x) other individual identifying information required by the office;

1 (b) in the case of a designated caregiver:

2 (i) the name, address, and date of birth of the designated caregiver;

3 (ii) if the designated caregiver has a registry identification card,
4 the registry identification number and expiration date of that registry
5 identification card; and

6 (iii) other individual identifying information required by the office;

7 (c) a statement that a false statement made in the application is
8 punishable under section 210.45 of the penal law;

9 (d) the date of the application and the signature of the certified
10 patient or designated caregiver, as the case may be;

11 (e) any other requirements determined by the board.

12 3. Where a certified patient is under the age of eighteen or otherwise
13 incapable of consent:

14 (a) The application for a registry identification card shall be made
15 by the person responsible for making health care decisions for the
16 patient.

17 (b) The designated caregiver shall be: (i) a parent or legal guardian
18 of the certified patient; (ii) a person designated by a parent or legal
19 guardian; (iii) an employee of a designated caregiver facility, includ-
20 ing a cannabis research license holder; or (iv) an appropriate person
21 approved by the office upon a sufficient showing that no parent or legal
22 guardian is appropriate or available.

23 4. No person may be a designated caregiver if the person is under
24 twenty-one years of age unless a sufficient showing is made to the
25 office that the person should be permitted to serve as a designated
26 caregiver. The requirements for such a showing shall be determined by
27 the board.

28 5. No person may be a designated caregiver for more than five certi-
29 fied patients at one time; provided, however, that this limitation shall
30 not apply to a designated caregiver facility, or cannabis research
31 license holder as defined by this chapter.

32 6. If a certified patient wishes to change or terminate his or her
33 designated caregiver, for whatever reason, the certified patient shall
34 notify the office as soon as practicable. The office shall issue a
35 notification to the designated caregiver that their registration card is
36 invalid and must be promptly destroyed. The newly designated caregiver
37 must comply with all requirements set forth in this section.

38 7. If the certification so provides, the registry identification card
39 shall contain any recommendation or limitation by the practitioner as to
40 the form or forms of medical cannabis or dosage for the certified
41 patient.

42 8. The office shall issue separate registry identification cards for
43 certified patients and designated caregivers as soon as reasonably prac-
44 ticable after receiving a complete application under this section,
45 unless it determines that the application is incomplete or factually
46 inaccurate, in which case it shall promptly notify the applicant.

47 9. If the application of a certified patient designates an individual
48 as a designated caregiver who is not authorized to be a designated care-
49 giver, that portion of the application shall be denied by the office but
50 that shall not affect the approval of the balance of the application.

51 10. A registry identification card shall:

52 (a) contain the name of the certified patient or the designated care-
53 giver as the case may be;

54 (b) contain the date of issuance and expiration date of the registry
55 identification card;

1 (c) contain a registry identification number for the certified patient
2 or designated caregiver, as the case may be and a registry identifica-
3 tion number;

4 (d) contain a photograph of the individual to whom the registry iden-
5 tification card is being issued, which shall be obtained by the office
6 in a manner specified by the board in regulations; provided, however,
7 that if the office requires certified patients to submit photographs for
8 this purpose, there shall be a reasonable accommodation of certified
9 patients who are confined to their homes due to their medical conditions
10 and may therefore have difficulty procuring photographs;

11 (e) be a secure document as determined by the board;

12 (f) plainly state any recommendation or limitation by the practitioner
13 as to the form or forms of medical cannabis or dosage for the certified
14 patient; and

15 (g) any other requirements determined by the board.

16 11. A certified patient or designated caregiver who has been issued a
17 registry identification card shall notify the office of any change in
18 his or her name or address or, with respect to the patient, if he or she
19 ceases to have the condition noted on the certification within ten days
20 of such change. The certified patient's or designated caregiver's regis-
21 try identification card shall be deemed invalid and shall be promptly
22 destroyed.

23 12. If a certified patient or designated caregiver loses his or her
24 registry identification card, he or she shall notify the office within
25 ten days of losing the card. The office shall issue a new registry iden-
26 tification card as soon as practicable, which may contain a new registry
27 identification number, to the certified patient or designated caregiver,
28 as the case may be.

29 13. The office shall maintain a confidential list of the persons to
30 whom it has issued registry identification cards. Individual identifying
31 information obtained by the office under this article shall be confiden-
32 tial and exempt from disclosure under article six of the public officers
33 law.

34 14. The board shall verify to law enforcement personnel in an appro-
35 priate case whether a registry identification card is valid.

36 15. If a certified patient or designated caregiver willfully violates
37 any provision of this article as determined by the board, his or her
38 certification and registry identification card may be suspended or
39 revoked. This is in addition to any other penalty that may apply.

40 16. The board shall make regulations for special certifications, which
41 shall include expedited procedures and which may require the applicant
42 to submit additional documentation establishing the clinical basis for
43 the special certification. If the board has not established and made
44 available a form for a registry application or renewal application, or
45 established and made available a form for a registry application or
46 renewal application, then in the case of a special certification, a
47 registry application or renewal application that otherwise conforms with
48 the requirements of this section shall not require the use of a form.

49 § 33. Registration as a designated caregiver facility. 1. To obtain,
50 amend or renew a registration as a designated caregiver facility, the
51 facility shall file a registry application with the office. The registry
52 application or renewal application shall include:

53 (a) the facility's full name and address;

54 (b) operating certificate or license number where appropriate;

55 (c) printed name, title, and signature of an authorized facility
56 representative;

1 (d) a statement that the facility agrees to secure and ensure proper
2 handling of all medical cannabis products;

3 (e) an acknowledgement that a false statement in the application is
4 punishable under section 210.45 of the penal law; and

5 (f) any other information that may be required by the board.

6 2. Prior to issuing or renewing a designated caregiver facility regis-
7 tration, the office may verify the information submitted by the appli-
8 cant. The applicant shall provide, at the office's request, such infor-
9 mation and documentation, including any consents or authorizations that
10 may be necessary for the office to verify the information.

11 3. The office shall approve, deny or determine incomplete or inaccur-
12 ate an initial or renewal application within thirty days of receipt of
13 the application. If the application is approved within the thirty-day
14 period, the office shall issue a registration as soon as is reasonably
15 practicable.

16 4. An applicant shall have thirty days from the date of a notification
17 of an incomplete or factually inaccurate application to submit the mate-
18 rials required to complete, revise or substantiate information in the
19 application. If the applicant fails to submit the required materials
20 within such thirty-day time period, the application shall be denied by
21 the office.

22 5. Registrations issued under this section shall remain valid for two
23 years from the date of issuance.

24 § 34. Registered organizations. 1. A registered organization shall be
25 a for-profit business entity or not-for-profit corporation organized for
26 the purpose of acquiring, possessing, manufacturing, selling, deliver-
27 ing, transporting, distributing or dispensing cannabis for certified
28 medical use.

29 2. The acquiring, possession, manufacture, sale, delivery, transport-
30 ing, distributing or dispensing of medical cannabis by a registered
31 organization under this article in accordance with its registration
32 under this article or a renewal thereof shall be lawful under this chap-
33 ter.

34 3. Each registered organization shall contract with an independent
35 laboratory permitted by the board to test the medical cannabis produced
36 by the registered organization. The board shall approve the laboratory
37 used by the registered organization and may require that the registered
38 organization use a particular testing laboratory. The board is author-
39 ized to issue regulations requiring the laboratory to perform certain
40 tests and services.

41 4. (a) A registered organization may lawfully, in good faith, sell,
42 deliver, distribute or dispense medical cannabis to a certified patient
43 or designated caregiver upon presentation to the registered organization
44 of a valid registry identification card for that certified patient or
45 designated caregiver. When presented with the registry identification
46 card, the registered organization shall provide to the certified patient
47 or designated caregiver a receipt, which shall state: the name, address,
48 and registry identification number of the registered organization; the
49 name and registry identification number of the certified patient and the
50 designated caregiver, if any; the date the cannabis was sold; any recom-
51 mendation or limitation by the practitioner as to the form or forms of
52 medical cannabis or dosage for the certified patient; and the form and
53 the quantity of medical cannabis sold. The registered organization shall
54 retain a copy of the registry identification card and the receipt for
55 six years.

1 (b) The proprietor of a registered organization shall file or cause to
2 be filed any receipt and certification information with the office by
3 electronic means on a real-time basis as the board shall require by
4 regulation. When filing receipt and certification information electron-
5 ically pursuant to this paragraph, the proprietor of the registered
6 organization shall dispose of any electronically recorded prescription
7 information in such manner as the board shall by regulation require.

8 5. (a) No registered organization may sell, deliver, distribute or
9 dispense to any certified patient or designated caregiver a quantity of
10 medical cannabis larger than that individual would be allowed to possess
11 under this chapter.

12 (b) When dispensing medical cannabis to a certified patient or desig-
13 nated caregiver, the registered organization: (i) shall not dispense an
14 amount greater than a sixty-day supply to a certified patient until the
15 certified patient has exhausted all but a seven day supply provided
16 pursuant to a previously issued certification; and (ii) shall verify the
17 information in subparagraph (i) of this paragraph by consulting the
18 prescription monitoring program registry under this article.

19 (c) Medical cannabis dispensed to a certified patient or designated
20 caregiver by a registered organization shall conform to any recommenda-
21 tion or limitation by the practitioner as to the form or forms of
22 medical cannabis or dosage for the certified patient.

23 6. When a registered organization sells, delivers, distributes or
24 dispenses medical cannabis to a certified patient or designated caregiv-
25 er, it shall provide to that individual a safety insert, which will be
26 developed by the registered organization and approved by the board and
27 include, but not be limited to, information on:

- 28 (a) methods for administering medical cannabis,
- 29 (b) any potential dangers stemming from the use of medical cannabis,
- 30 (c) how to recognize what may be problematic usage of medical cannabis
31 and obtain appropriate services or treatment for problematic usage, and
- 32 (d) other information as determined by the board.

33 7. Registered organizations shall not be managed by or employ anyone
34 who has been convicted within three years of the date of hire, of any
35 felony related to the functions or duties of operating a business,
36 except that if the board determines that the manager or employee is
37 otherwise suitable to be hired, and hiring the manager or employee would
38 not compromise public safety, the board shall conduct a thorough review
39 of the nature of the crime, conviction, circumstances, and evidence of
40 rehabilitation of the manager or employee, and shall evaluate the suit-
41 ability of the manager or employee based on the evidence found through
42 the review. In determining which offenses are substantially related to
43 the functions or duties of operating a business, the board shall
44 include, but not be limited to, the following:

- 45 (a) a felony conviction involving fraud, money laundering, forgery and
46 other unlawful conduct related to owning and operating a business; and
- 47 (b) a felony conviction for hiring, employing or using a minor in
48 transporting, carrying, selling, giving away, preparing for sale, or
49 peddling, any controlled substance, or selling, offering to sell,
50 furnishing, offering to furnish, administering, or giving any controlled
51 substance to a minor.

52 A felony conviction for the sale or possession of drugs, narcotics, or
53 controlled substances is not substantially related. This subdivision
54 shall only apply to managers or employees who come into contact with or
55 handle medical cannabis.

1 8. Manufacturing of medical cannabis by a registered organization
2 shall only be done in an indoor, enclosed, secure facility located in
3 New York state, which may include a greenhouse. The board shall promul-
4 gate regulations establishing requirements for such facilities.

5 9. Dispensing of medical cannabis by a registered organization shall
6 only be done in an indoor, enclosed, secure facility located in New York
7 state, which may include a greenhouse. The board shall promulgate regu-
8 lations establishing requirements for such facilities.

9 10. A registered organization may contract with a person or entity to
10 provide facilities, equipment or services that are ancillary to the
11 registered organization's functions or activities under this article
12 including, but not limited to, shipping, maintenance, construction,
13 repair, and security, provided that the person or entity shall not
14 perform any function or activity directly involving the planting, grow-
15 ing, tending, harvesting, processing, or packaging of cannabis plants,
16 medical cannabis, or medical cannabis products being produced by the
17 registered organization; or any other function directly involving manu-
18 facturing or retailing of medical cannabis. All laws and regulations
19 applicable to such facilities, equipment, or services shall apply to the
20 contract. The registered organization and other parties to the contract
21 shall each be responsible for compliance with such laws and regulations
22 under the contract. The board may make regulations consistent with this
23 article relating to contracts and parties to contracts under this subdi-
24 vision.

25 11. A registered organization shall, based on the findings of an inde-
26 pendent laboratory, provide documentation of the quality, safety and
27 clinical strength of the medical cannabis manufactured or dispensed by
28 the registered organization to the office and to any person or entity to
29 which the medical cannabis is sold or dispensed.

30 12. A registered organization shall be deemed to be a "health care
31 provider" for the purposes of title two-D of article two of the public
32 health law.

33 13. Medical cannabis shall be dispensed to a certified patient or
34 designated caregiver in a sealed and properly labeled package. The
35 labeling shall contain: (a) the information required to be included in
36 the receipt provided to the certified patient or designated caregiver by
37 the registered organization; (b) the packaging date; (c) any applicable
38 date by which the medical cannabis should be used; (d) a warning stat-
39 ing, "This product is for medicinal use only. Women should not consume
40 during pregnancy or while breastfeeding except on the advice of the
41 certifying health care practitioner, and in the case of breastfeeding
42 mothers, including the infant's pediatrician. This product might impair
43 the ability to drive. Keep out of reach of children."; (e) the amount of
44 individual doses contained within; and (f) a warning that the medical
45 cannabis must be kept in the original container in which it was
46 dispensed.

47 14. The board is authorized to make rules and regulations restricting
48 the advertising and marketing of medical cannabis.

49 § 35. Registering of registered organizations. 1. (a) An applicant
50 for registration as a registered organization under section thirty-four
51 of this article shall include such information prepared in such manner
52 and detail as the board may require, including but not limited to:

53 (i) a description of the activities in which it intends to engage as a
54 registered organization;

55 (ii) that the applicant:

56 (A) is of good moral character;

1 (B) possesses or has the right to use sufficient land, buildings, and
2 other premises, which shall be specified in the application, and equip-
3 ment to properly carry on the activity described in the application, or
4 in the alternative posts a bond of not less than two million dollars;

5 (C) is able to maintain effective security and control to prevent
6 diversion, abuse, and other illegal conduct relating to the cannabis;
7 and

8 (D) is able to comply with all applicable state laws and regulations
9 relating to the activities in which it intends to engage under the
10 registration;

11 (iii) that the applicant has entered into a labor peace agreement with
12 a bona fide labor organization that is actively engaged in representing
13 or attempting to represent the applicant's employees and the maintenance
14 of such a labor peace agreement shall be an ongoing material condition
15 of certification;

16 (iv) the applicant's status as a for-profit business entity or not-
17 for-profit corporation; and

18 (v) the application shall include the name, residence address and
19 title of each of the officers and directors and the name and residence
20 address of any person or entity that is a member of the applicant. Each
21 such person, if an individual, or lawful representative if a legal enti-
22 ty, shall submit an affidavit with the application setting forth:

23 (A) any position of management or ownership during the preceding ten
24 years of a twenty per centum or greater interest in any other business,
25 located in or outside this state, manufacturing or distributing drugs;

26 (B) whether such person or any such business has been convicted of a
27 felony or had a registration or license suspended or revoked in any
28 administrative or judicial proceeding; and

29 (C) such other information as the board may reasonably require.

30 2. The applicant shall be under a continuing duty to report to the
31 office any change in facts or circumstances reflected in the application
32 or any newly discovered or occurring fact or circumstance which is
33 required to be included in the application.

34 3. (a) The board shall grant a registration or amendment to a regis-
35 tration under this section if he or she is satisfied that:

36 (i) the applicant will be able to maintain effective control against
37 diversion of cannabis;

38 (ii) the applicant will be able to comply with all applicable state
39 laws;

40 (iii) the applicant and its officers are ready, willing and able to
41 properly carry on the manufacturing or distributing activity for which a
42 registration is sought;

43 (iv) the applicant possesses or has the right to use sufficient land,
44 buildings and equipment to properly carry on the activity described in
45 the application;

46 (v) it is in the public interest that such registration be granted,
47 including but not limited to:

48 (A) whether the number of registered organizations in an area will be
49 adequate or excessive to reasonably serve the area;

50 (B) whether the registered organization is a minority and/or woman
51 owned business enterprise or a service-disabled veteran-owned business;

52 (C) whether the registered organization provides education and
53 outreach to practitioners;

54 (D) whether the registered organization promotes the research and
55 development of medical cannabis and patient outreach; and

1 (E) the affordability of medical cannabis products offered by the
2 registered organization;

3 (vi) the applicant and its managing officers are of good moral charac-
4 ter;

5 (vii) the applicant has entered into a labor peace agreement with a
6 bona fide labor organization that is actively engaged in representing or
7 attempting to represent the applicant's employees; and the maintenance
8 of such a labor peace agreement shall be an ongoing material condition
9 of registration; and

10 (viii) the applicant satisfies any other conditions as determined by
11 the board.

12 (b) If the board is not satisfied that the applicant should be issued
13 a registration, he or she shall notify the applicant in writing of those
14 factors upon which further evidence is required. Within thirty days of
15 the receipt of such notification, the applicant may submit additional
16 material to the board or demand a hearing, or both.

17 (c) The fee for a registration under this section shall be an amount
18 determined by the board in regulations; provided, however, if the regis-
19 tration is issued for a period greater than two years the fee shall be
20 increased, pro rata, for each additional month of validity.

21 (d) Registrations issued under this section shall be effective only
22 for the registered organization and shall specify:

23 (i) the name and address of the registered organization;

24 (ii) which activities of a registered organization are permitted by
25 the registration;

26 (iii) the land, buildings and facilities that may be used for the
27 permitted activities of the registered organization; and

28 (iv) such other information as the board shall reasonably provide to
29 assure compliance with this article.

30 (e) Upon application of a registered organization, a registration may
31 be amended to allow the registered organization to relocate within the
32 state or to add or delete permitted registered organization activities
33 or facilities. The fee for such amendment shall be two hundred fifty
34 dollars.

35 4. A registration issued under this section shall be valid for two
36 years from the date of issue, except that in order to facilitate the
37 renewals of such registrations, the board may upon the initial applica-
38 tion for a registration, issue some registrations which may remain valid
39 for a period of time greater than two years but not exceeding an addi-
40 tional eleven months.

41 5. (a) An application for the renewal of any registration issued
42 under this section shall be filed with the board not more than six
43 months nor less than four months prior to the expiration thereof. A
44 late-filed application for the renewal of a registration may, in the
45 discretion of the board, be treated as an application for an initial
46 license.

47 (b) The application for renewal shall include such information
48 prepared in the manner and detail as the board may require, including
49 but not limited to:

50 (i) any material change in the circumstances or factors listed in
51 subdivision one of this section; and

52 (ii) every known charge or investigation, pending or concluded during
53 the period of the registration, by any governmental or administrative
54 agency with respect to:

1 (A) each incident or alleged incident involving the theft, loss, or
2 possible diversion of medical cannabis manufactured or distributed by
3 the applicant; and

4 (B) compliance by the applicant with the laws of the state with
5 respect to any substance listed in section thirty-three hundred six of
6 the public health law.

7 (c) An applicant for renewal shall be under a continuing duty to
8 report to the board any change in facts or circumstances reflected in
9 the application or any newly discovered or occurring fact or circum-
10 stance which is required to be included in the application.

11 (d) If the board is not satisfied that the registered organization
12 applicant is entitled to a renewal of the registration, the board shall
13 within a reasonably practicable time as determined by the executive
14 director, serve upon the registered organization or its attorney of
15 record in person or by registered or certified mail an order directing
16 the registered organization to show cause why its application for
17 renewal should not be denied. The order shall specify in detail the
18 respects in which the applicant has not satisfied the board that the
19 registration should be renewed.

20 (e) Within a reasonably practicable time as determined by the board of
21 such order, the applicant may submit additional material to the board or
22 demand a hearing or both; if a hearing is demanded the board shall fix a
23 date as soon as reasonably practicable.

24 6. (a) The board shall renew a registration unless he or she deter-
25 mines and finds that:

26 (i) the applicant is unlikely to maintain or be able to maintain
27 effective control against diversion;

28 (ii) the applicant is unlikely to comply with all state laws applica-
29 ble to the activities in which it may engage under the registration;

30 (iii) it is not in the public interest to renew the registration
31 because the number of registered organizations in an area is excessive
32 to reasonably serve the area; or

33 (iv) the applicant has either violated or terminated its labor peace
34 agreement.

35 (b) For purposes of this section, proof that a registered organiza-
36 tion, during the period of its registration, has failed to maintain
37 effective control against diversion, violates any provision of this
38 article, or has knowingly or negligently failed to comply with applica-
39 ble state laws relating to the activities in which it engages under the
40 registration, shall constitute grounds for suspension, termination or
41 limitation of the registered organization's registration or as deter-
42 mined by the board. The registered organization shall also be under a
43 continuing duty to report to the authority any material change or fact
44 or circumstance to the information provided in the registered organiza-
45 tion's application.

46 7. The board may suspend or terminate the registration of a registered
47 organization, on grounds and using procedures under this article relat-
48 ing to a license, to the extent consistent with this article. The
49 authority shall suspend or terminate the registration in the event that
50 a registered organization violates or terminates the applicable labor
51 peace agreement. Conduct in compliance with this article which may
52 violate conflicting federal law, shall not be grounds to suspend or
53 terminate a registration.

54 8. A registered organization that manufactures medical cannabis may
55 have no more than four dispensing sites wholly owned and operated by
56 such registered organization. Such registered organization may have an

1 additional four dispensing sites; provided, however, that the first two
2 additional dispensing sites shall be located in underserved or unserved
3 geographic locations, as determined by the board. The board shall ensure
4 that such registered organizations and dispensing sites are geograph-
5 ically distributed across the state and that their ownership reflects
6 the demographics of the state. The board shall register additional
7 registered organizations to provide services to unserved and underserved
8 areas of the state. Additional registered organization shall be reflec-
9 tive of the demographics of the state.

10 § 36. Reports of registered organizations. 1. The board shall, by
11 regulation, require each registered organization to file reports by the
12 registered organization during a particular period. The board shall
13 determine the information to be reported and the forms, time, and manner
14 of the reporting.

15 2. The board shall, by regulation, require each registered organiza-
16 tion to adopt and maintain security, tracking, record keeping, record
17 retention and surveillance systems, relating to all medical cannabis at
18 every stage of acquiring, possession, manufacture, sale, delivery,
19 transporting, distributing, or dispensing by the registered organiza-
20 tion, subject to regulations of the board.

21 § 37. Evaluation; research programs; report by board. 1. The board
22 may provide for the analysis and evaluation of the operation of this
23 article. The board may enter into agreements with one or more persons,
24 not-for-profit corporations or other organizations, for the performance
25 of an evaluation of the implementation and effectiveness of this arti-
26 cle.

27 2. The board may develop, seek any necessary federal approval for, and
28 carry out research programs relating to medical use of cannabis. Partic-
29 ipation in any such research program shall be voluntary on the part of
30 practitioners, patients, and designated caregivers.

31 3. The board shall report every two years, beginning two years after
32 the effective date of this article, to the governor and the legislature
33 on the medical use of cannabis under this article and make appropriate
34 recommendations.

35 § 38. Cannabis research license. 1. The board shall establish a
36 cannabis research license that permits a licensee to produce, process,
37 purchase and possess cannabis for the following limited research
38 purposes:

- 39 (a) to test chemical potency and composition levels;
- 40 (b) to conduct clinical investigations of cannabis-derived drug
41 products;
- 42 (c) to conduct research on the efficacy and safety of administering
43 cannabis as part of medical treatment; and
- 44 (d) to conduct genomic or agricultural research.

45 2. As part of the application process for a cannabis research license,
46 an applicant must submit to the board a description of the research that
47 is intended to be conducted as well as the amount of cannabis to be
48 grown or purchased. The board shall review an applicant's research
49 project and determine whether it meets the requirements of subdivision
50 one of this section. In addition, the board shall assess the application
51 based on the following criteria:

- 52 (a) project quality, study design, value, and impact;
- 53 (b) whether the applicant has the appropriate personnel, expertise,
54 facilities and infrastructure, funding, and human, animal, or other
55 approvals in place to successfully conduct the project; and

1 (c) whether the amount of cannabis to be grown or purchased by the
2 applicant is consistent with the project's scope and goals. If the
3 office determines that the research project does not meet the require-
4 ments of subdivision one of this section, the application must be
5 denied.

6 3. A cannabis research licensee may only sell cannabis grown or within
7 its operation to other cannabis research licensees. The board may revoke
8 a cannabis research license for violations of this section.

9 4. A cannabis research licensee may contract with an institution of
10 higher education, including but not limited to a hospital within the
11 state university of New York, to perform research in conjunction with
12 such institution. All research projects, entered into under this
13 section must be approved by the board and meet the requirements of
14 subdivision one of this section.

15 5. In establishing a cannabis research license, the board may adopt
16 regulations on the following:

- 17 (a) application requirements;
- 18 (b) cannabis research license renewal requirements, including whether
19 additional research projects may be added or considered;
- 20 (c) conditions for license revocation;
- 21 (d) security measures to ensure cannabis is not diverted to purposes
22 other than research;
- 23 (e) amount of plants, useable cannabis, cannabis concentrates, or
24 cannabis-infused products a licensee may have on its premises;
- 25 (f) licensee reporting requirements;
- 26 (g) conditions under which cannabis grown by licensed cannabis produc-
27 ers and other product types from licensed cannabis processors may be
28 donated to cannabis research licensees; and
- 29 (h) any additional requirements deemed necessary by the board.

30 6. A cannabis research license issued pursuant to this section must be
31 issued in the name of the applicant and specify the location at which
32 the cannabis researcher intends to operate, which must be within the
33 state of New York.

34 7. The application fee for a cannabis research license shall be deter-
35 mined by the board on an annual basis.

36 8. Each cannabis research licensee shall issue an annual report to the
37 board. The board shall review such report and make a determination as to
38 whether the research project continues to meet the research qualifica-
39 tions under this section.

40 § 39. Registered organizations and adult-use cannabis. The board shall
41 have the authority to grant some or all of the registered organizations
42 registered with the department of health and currently registered and in
43 good standing with the office, the ability to obtain adult-use cannabis
44 licenses pursuant to article four of this chapter subject to any fees,
45 rules or conditions prescribed by the board in regulation.

46 § 40. Relation to other laws. 1. The provisions of this article shall
47 apply, except that where a provision of this article conflicts with
48 another provision of this chapter, this article shall apply.

49 2. Medical cannabis shall not be deemed to be a "drug" for purposes of
50 article one hundred thirty-seven of the education law.

51 § 41. Home cultivation of medical cannabis. 1. Notwithstanding the
52 provisions of section thirty-three hundred eighty-two of the public
53 health law certified patients and their designated caregiver(s) twenty-
54 one years of age or older may:

- 55 (a) plant, cultivate, harvest, dry, process or possess no more than
56 six mature cannabis plants at any one time; or

1 (b) plant, cultivate, harvest, dry, process or possess, within his or
2 her private residence, or on the grounds of his or her private resi-
3 dence, no more than six mature cannabis plants at any one time.

4 2. Any mature cannabis plant described in subdivision one of this
5 section, and any cannabis produced by any such cannabis plant or plants
6 in excess of three ounces, cultivated, harvested, dried, processed or
7 possessed pursuant to subdivision one of this section shall, unless
8 otherwise authorized by law or regulation, be stored except for inci-
9 dental periods within such person's private residence or storage space
10 or on the grounds of such person's private residence or storage space.
11 Such person shall take reasonable steps designed to assure that such
12 cultivated cannabis is in a secured place.

13 3. A county, town, city or village may enact and enforce regulations
14 to reasonably regulate the actions and conduct set forth in subdivision
15 one of this section; provided that:

16 (a) a violation of any such a regulation, as approved by such county,
17 town, city or village enacting the regulation, may constitute no more
18 than an infraction and may be punishable by no more than a discretionary
19 civil penalty of two hundred dollars or less; and

20 (b) no county, town, city or village may enact or enforce any such
21 regulation or regulations that may completely or essentially prohibit a
22 person from engaging in the action or conduct authorized by subdivision
23 one of this section.

24 4. A violation of subdivision one or two of this section may be
25 subject to a civil penalty of up to one hundred twenty-five dollars.

26 5. The board shall develop rules and regulations governing this
27 section within one year of the effective date of this section.

28 § 42. Protections for the medical use of cannabis. 1. Certified
29 patients, designated caregivers, designated caregiver facilities and
30 employees of designated caregiver facilities, practitioners, registered
31 organizations and the employees of registered organizations, and canna-
32 bis researchers shall not be subject to arrest, prosecution, or penalty
33 in any manner, or denied any right or privilege, including but not
34 limited to civil penalty or disciplinary action by a business or occupa-
35 tional or professional licensing board or bureau, solely for the certi-
36 fied medical use or manufacture of cannabis, or for any other action or
37 conduct in accordance with this article.

38 2. Being a certified patient shall be deemed to be having a "disabili-
39 ty" under article fifteen of the executive law, section forty-c of the
40 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,
41 and section 200.50 of the criminal procedure law. This subdivision shall
42 not bar the enforcement of a policy prohibiting an employee from
43 performing his or her employment duties while impaired by a controlled
44 substance. This subdivision shall not require any person or entity to do
45 any act that would put the person or entity in direct violation of
46 federal law or cause it to lose a federal contract or funding.

47 3. The fact that a person is a certified patient and/or acting in
48 accordance with this article, shall not be a consideration in a proceed-
49 ing pursuant to applicable sections of the domestic relations law, the
50 social services law and the family court act.

51 4. (a) Certification applications, certification forms, any certified
52 patient information contained within a database, and copies of registry
53 identification cards shall be deemed exempt from public disclosure under
54 sections eighty-seven and eighty-nine of the public officers law.

55 (b) The name, contact information, and other information relating to
56 practitioners registered with the board under this article shall be

1 public information and shall be maintained on the board's website acces-
2 sible to the public in searchable form. However, if a practitioner noti-
3 fies the board in writing that he or she does not want his or her name
4 and other information disclosed, that practitioner's name and other
5 information shall thereafter not be public information or maintained on
6 the board's website, unless the practitioner cancels the request.

7 5. A person currently under parole, probation or other state or local
8 supervision, or released on bail awaiting trial may not be punished or
9 otherwise penalized for conduct allowed under this article.

10 § 43. Regulations. The board shall promulgate regulations in consulta-
11 tion with the cannabis advisory board to implement this article.

12 § 44. Suspend; terminate. Based upon the recommendation of the board,
13 executive director and/or the superintendent of state police that there
14 is a risk to the public health or safety, the governor may immediately
15 suspend or terminate all licenses issued to registered organizations.

16 § 45. Pricing. Registered organizations shall submit documentation to
17 the executive director of any change in pricing per dose for any medical
18 cannabis product within fifteen days of such change. Prior approval by
19 the executive director shall not be required for any such change;
20 provided however that the board is authorized to modify the price per
21 dose for any medical cannabis product if necessary to maintain public
22 access to appropriate medication.

23 ARTICLE 4
24 ADULT-USE CANNABIS

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8 87. Social and economic equity, minority and women-owned busi-
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13 § 61. License application. 1. Any person may apply to the board for a
14 license to cultivate, process, distribute or dispense cannabis within
15 this state for sale. Such application shall be in writing and verified
16 and shall contain such information as the board shall require. Such
17 application shall be accompanied by a check or draft for the amount
18 required by this article for such license. If the board shall approve
19 the application, it shall issue a license in such form as shall be
20 determined by its rules. Such license shall contain a description of the
21 licensed premises and in form and in substance shall be a license to the
22 person therein specifically designated to cultivate, process, distrib-
23 ute, deliver or dispense cannabis in the premises therein specifically
24 licensed.

25 2. Except as otherwise provided in this article, a separate license
26 shall be required for each facility at which cultivation, processing,
27 distribution or retail dispensing is conducted.

28 3. An applicant shall not be denied a license under this article based
29 solely on a conviction for a violation of article two hundred twenty or
30 section 240.36 of the penal law, prior to the date article two hundred
31 twenty-one of the penal law took effect, a conviction for a violation of
32 article two hundred twenty-one of the penal law, or a conviction for a
33 violation of article two hundred twenty-two of the penal law after the
34 effective date of this chapter.

35 § 62. Information to be requested in applications for licenses. 1.
36 The board shall have the authority to prescribe the manner and form in
37 which an application must be submitted to the board for licensure under
38 this article.

39 2. The board is authorized to adopt regulations, including by emergen-
40 cy rule, establishing information which must be included on an applica-
41 tion for licensure under this article. Such information may include, but
42 is not limited to: information about the applicant's identity, includ-
43 ing racial and ethnic diversity; ownership and investment information,
44 including the corporate structure; evidence of good moral character,
45 including the submission of fingerprints by the applicant to the divi-
46 sion of criminal justice services; information about the premises to be
47 licensed; financial statements; and any other information prescribed by
48 regulation.

49 3. All license applications shall be signed by the applicant (if an
50 individual), by a managing member (if a limited liability company), by
51 an officer (if a corporation), or by all partners (if a partnership).
52 Each person signing such application shall verify or affirm it as true
53 under the penalties of perjury.

54 4. All license or permit applications shall be accompanied by a check,
55 draft or other forms of payment as the board may require or authorize in
56 the amount required by this article for such license or permit.

1 5. If there are any changes, after the filing of the application or
2 the granting of a license or permit, in any of the facts required to be
3 set forth in such application, a supplemental statement giving notice of
4 such change, cost and source of money involved in the change, duly veri-
5 fied or affirmed, shall be filed with the board within ten days after
6 such change. Failure to do so shall, if willful and deliberate, be cause
7 for denial or revocation of the license.

8 6. In giving any notice, or taking any action in reference to a regis-
9 tered organization or licensee of a licensed premises, the board may
10 rely upon the information furnished in such application and in any
11 supplemental statement connected therewith, and such information may be
12 presumed to be correct, and shall be binding upon registered organiza-
13 tions, licensee or licensed premises as if correct. All information
14 required to be furnished in such application or supplemental statements
15 shall be deemed material in any prosecution for perjury, any proceeding
16 to revoke, cancel or suspend any license, and in the board's final
17 determination to approve or deny the license.

18 § 63. Fees. 1. The board shall have the authority to charge applicants
19 for licensure under this article a non-refundable application fee. Such
20 fee may be based on the type of licensure sought, cultivation and/or
21 production volume, or any other factors deemed reasonable and appropri-
22 ate by the board to achieve the policy and purpose of this chapter.

23 1-a. The board shall also have the authority to assess a registered
24 organization with a one-time special licensing fee for a registered
25 organization adult-use cultivator, processor, distributor, retail
26 dispensary license. Such fee shall be assessed at an amount to
27 adequately fund social and economic equity and incubator assistance
28 pursuant to this article and paragraph (c) of subdivision three of
29 section ninety-nine-ii of the state finance law. Provided, however,
30 that the board shall not allow registered organizations to dispense
31 adult-use cannabis from more than three of their medical cannabis
32 dispensing locations. The timing and manner in which registered organ-
33 izations may be granted such authority shall be determined by the board
34 in regulation.

35 2. The board shall have the authority to charge licensees a biennial
36 license fee. Such fee shall be based on the amount of cannabis to be
37 cultivated, processed, distributed and/or dispensed by the licensee or
38 the gross annual receipts of the licensee for the previous license peri-
39 od, and any other factors deemed reasonable and appropriate by the
40 board.

41 3. The board shall waive or reduce fees for social and economic equity
42 applicants.

43 § 64. Selection criteria. 1. The board shall develop regulations for
44 determining whether or not an applicant should be granted the privilege
45 of an initial adult-use cannabis license, based on, but not limited to,
46 the following criteria:

- 47 (a) the applicant is a social and economic equity applicant;
48 (b) the applicant will be able to maintain effective control against
49 the illegal diversion of cannabis;
50 (c) the applicant will be able to comply with all applicable state
51 laws and regulations;
52 (d) the applicant and its officers are ready, willing, and able to
53 properly carry on the activities for which a license is sought including
54 with assistance from the social and economic equity and incubator
55 program, if applicable;

1 (e) the applicant possesses or has the right to use sufficient land,
2 buildings, and equipment to properly carry on the activity described in
3 the application or has a plan to do so if qualifying as a social and
4 economic equity applicant;

5 (f) the applicant qualifies as a social and economic equity applicant
6 or sets out a plan for benefiting communities and people dispropor-
7 tionally impacted by enforcement of cannabis laws;

8 (g) it is in the public interest that such license be granted, taking
9 into consideration, but not limited to, the following criteria:

10 (i) that it is a privilege, and not a right, to cultivate, process,
11 distribute, and sell adult-use cannabis;

12 (ii) the number, classes, and character of other licenses in proximity
13 to the location and in the particular municipality or subdivision there-
14 of;

15 (iii) evidence that all necessary licenses and permits have been or
16 will be obtained from the state and all other relevant governing bodies;

17 (iv) effect of the grant of the license on pedestrian or vehicular
18 traffic, and parking, in proximity to the location;

19 (v) the existing noise level at the location and any increase in noise
20 level that would be generated by the proposed premises;

21 (vi) the ability to mitigate adverse environmental impacts, including
22 but not limited to water usage, energy usage and carbon emissions;

23 (vii) the effect on the production and availability of cannabis and
24 cannabis products; and

25 (viii) any other factors specified by law or regulation that are rele-
26 vant to determine that granting a license would promote public conven-
27 ience and advantage and the public interest of the community;

28 (h) the applicant and its managing officers are of good moral charac-
29 ter and do not have an ownership or controlling interest in more
30 licenses or permits than allowed by this chapter;

31 (i) the applicant has entered into a labor peace agreement with a
32 bona-fide labor organization that is actively engaged in representing or
33 attempting to represent the applicant's employees, and the maintenance
34 of such a labor peace agreement shall be an ongoing material condition
35 of licensure. In evaluating applications from entities with twenty-five
36 or more employees, the office shall give priority to applicants that are
37 a party to a collective bargaining agreement with a bona-fide labor
38 organization in New York or in another state, and uses union labor to
39 construct its licensed facility;

40 (j) the applicant will contribute to communities and people dispropor-
41 tionately harmed by enforcement of cannabis laws and report these
42 contributions to the board;

43 (k) if the application is for an adult-use cultivator or processor
44 license, the environmental and energy impact of the facility to be
45 licensed;

46 (l) the applicant satisfies any other conditions as determined by the
47 board; and

48 (m) if the applicant is a registered organization, the organization's
49 maintenance of effort in manufacturing and/or dispensing and/or research
50 of medical cannabis for certified patients and caregivers.

51 2. If the board is not satisfied that the applicant should be issued a
52 license, the executive director shall notify the applicant in writing of
53 the specific reason or reasons recommended by the board for denial.

54 3. The state cannabis advisory board shall have the authority to
55 recommend to the board the number of licenses issued pursuant to this
56 article to ensure a competitive market where no licensee is dominant in

1 the statewide marketplace or in any individual category of licensing, to
2 actively promote and potentially license social and economic equity
3 applicants, and carry out the goals of this chapter.

4 § 65. Limitations of licensure; duration. 1. No license of any kind
5 may be issued to a person under the age of twenty-one years, nor shall
6 any licensee employ anyone under the age of twenty-one years.

7 2. No licensee shall sell, deliver, or give away or cause or permit or
8 procure to be sold, delivered or given away any cannabis or cannabis
9 product to any person, actually or apparently, under the age of twenty-
10 one years unless the person under twenty-one is also a certified patient
11 and the licensee is appropriately licensed under article three of this
12 chapter.

13 3. The board, on the recommendation of the office shall have the
14 authority to limit, by canopy, plant count, square footage or other
15 means, the amount of cannabis allowed to be grown, processed, distrib-
16 uted or sold by a licensee.

17 4. All licenses under this article shall expire two years after the
18 date of issue.

19 § 66. License renewal. 1. Each license, issued pursuant to this arti-
20 cle, may be renewed upon application therefore by the licensee and the
21 payment of the fee for such license as prescribed by this article. In
22 the case of applications for renewals, the board may dispense with the
23 requirements of such statements as it deems unnecessary in view of those
24 contained in the application made for the original license, but in any
25 event the submission of photographs of the licensed premises shall be
26 dispensed with, provided the applicant for such renewal shall file a
27 statement with the board to the effect that there has been no alteration
28 of such premises since the original license was issued. The board may
29 make such rules as it deems necessary, not inconsistent with this chap-
30 ter, regarding applications for renewals of licenses and permits and the
31 time for making the same.

32 2. Each applicant must submit to the board documentation of the
33 racial, ethnic, and gender diversity of the applicant's employees and
34 owners prior to a license being renewed. In addition, the board shall
35 consult with the state cannabis advisory board and the chief equity
36 officer to create a social responsibility framework agreement and make
37 the adherence to such agreement a conditional requirement of license
38 renewal. The board shall promote applicants that foster racial, ethnic,
39 and gender diversity in their workplace.

40 3. The board shall provide an application for renewal of a license
41 issued under this article not less than ninety days prior to the expira-
42 tion of the current license.

43 4. The board may only issue a renewal license upon receipt of the
44 prescribed renewal application and renewal fee from a licensee if, in
45 addition to the criteria in this section, the licensee's license is not
46 under suspension and has not been revoked.

47 5. Each applicant must maintain a labor peace agreement with a bona-
48 fide labor organization that is actively engaged in representing or
49 attempting to represent the applicant's employees and the maintenance of
50 such a labor peace agreement shall be an ongoing material condition of
51 licensure.

52 6. Each applicant must provide evidence of the execution of their plan
53 for benefitting communities and people disproportionately impacted by
54 cannabis law enforcement required for initial licensing pursuant to
55 section sixty-four of this article.

1 § 67. Amendments; changes in ownership and organizational structure.

2 1. Licenses issued pursuant to this article shall specify:

3 (a) the name and address of the licensee;

4 (b) the activities permitted by the license;

5 (c) the land, buildings and facilities that may be used for the
6 licensed activities of the licensee;

7 (d) a unique license number issued by the board to the licensee; and

8 (e) such other information as the board shall deem necessary to assure
9 compliance with this chapter.

10 2. Upon application of a licensee to the board, a license may be
11 amended to allow the licensee to relocate within the state, to add or
12 delete licensed activities or facilities, or to amend the ownership or
13 organizational structure of the entity that is the licensee. The board
14 shall establish a fee for such amendments.

15 3. A license shall become void by a change in ownership, substantial
16 corporate change or location without prior written approval of the
17 board. The board may promulgate regulations allowing for certain types
18 of changes in ownership without the need for prior written approval.

19 4. For purposes of this section, "substantial corporate change" shall
20 mean:

21 (a) for a corporation, a change of eighty percent or more of the offi-
22 cers and/or directors, or a transfer of eighty percent or more of stock
23 of such corporation, or an existing stockholder obtaining eighty percent
24 or more of the stock of such corporation; or

25 (b) for a limited liability company, a change of eighty percent or
26 more of the managing members of the company, or a transfer of eighty
27 percent or more of ownership interest in said company, or an existing
28 member obtaining a cumulative of eighty percent or more of the ownership
29 interest in said company; or

30 (c) for a partnership, a change of eighty percent or more of the
31 managing partners of the company, or a transfer of eighty percent or
32 more of ownership interest in said company, or an existing member
33 obtaining a cumulative of eighty percent or more of the ownership inter-
34 est in said company.

35 § 68. Adult-use cultivator license. 1. An adult-use cultivator's
36 license shall authorize the acquisition, possession, distribution,
37 cultivation and sale of cannabis from the licensed premises of the
38 adult-use cultivator by such licensee to duly licensed processors in
39 this state. The board may establish regulations allowing licensed
40 adult-use cultivators to perform certain types of minimal processing
41 without the need for an adult-use processor license.

42 2. For purposes of this section, cultivation shall include, but not be
43 limited to, the agricultural production practices of planting, growing,
44 cloning, harvesting, drying, curing, grading and trimming of cannabis.

45 3. A person holding an adult-use cultivator's license may apply for,
46 and obtain, one processor's license.

47 4. A person holding an adult-use cultivator's license may not also
48 hold a retail dispensary license pursuant to this article and no adult-
49 use cannabis cultivator shall have a direct or indirect interest,
50 including by stock ownership, interlocking directors, mortgage or lien,
51 personal or real property, or any other means, in any premises licensed
52 as an adult-use cannabis retail dispensary or in any business licensed
53 as an adult-use cannabis retail dispensary or in any registered organ-
54 ization registered pursuant to article three of this chapter.

55 5. A person holding an adult-use cultivator's license may not hold a
56 license to distribute cannabis under this article.

1 6. No person may have a direct or indirect financial or controlling
2 interest in more than one adult-use cultivator license issued pursuant
3 to this chapter.

4 § 68-a. Registered organization adult-use cultivator processor
5 distributor retail dispensary license. A registered organization culti-
6 vator processor distributor retail dispensary license shall have the
7 same authorization and conditions as adult-use cultivator, adult-use
8 processor, adult-use distributor and adult-use retail dispensary
9 licenses issued pursuant to this article provided, however that the
10 sales of adult-use cannabis and cannabis products cultivated, processed
11 or distributed by such organizations shall be limited to the organiza-
12 tion's adult-use retail dispensaries and the location of such adult-use
13 dispensaries shall be limited to the organization's medical dispensar-
14 ies' premises and facilities authorized pursuant to article three of
15 this chapter. Provided further that such registered organization shall
16 maintain its medical cannabis license and continue offering medical
17 cannabis to a degree established by regulation of the board.

18 § 68-b. Registered organization adult-use cultivator license. A regis-
19 tered organization cultivator license shall have the same authorization
20 and conditions as an adult-use cultivator license, provided, however,
21 that sales of adult-use cannabis and cannabis products by such organiza-
22 tions shall be limited to licensed adult-use processors and such license
23 does not qualify such organization for any other adult-use license.

24 § 69. Adult-use processor license. 1. A processor's license shall
25 authorize the acquisition, possession, processing and sale of cannabis
26 from the licensed premises of the adult-use cultivator by such licensee
27 to duly licensed distributors.

28 2. For purposes of this section, processing shall include, but not be
29 limited to, blending, extracting, infusing, packaging, labeling, brand-
30 ing and otherwise making or preparing cannabis products. Processing
31 shall not include the cultivation of cannabis.

32 3. No processor shall be engaged in any other business on the premises
33 to be licensed; except that nothing contained in this chapter shall
34 prevent a cannabis cultivator and cannabis processor, from operating on
35 the same premises and from a person holding both licenses.

36 4. No cannabis processor licensee may hold more than three cannabis
37 processor licenses.

38 5. A person holding an adult-use processor's license may not hold a
39 license to distribute cannabis under this article.

40 6. No adult-use cannabis processor shall have a direct or indirect
41 interest, including by stock ownership, interlocking directors, mortgage
42 or lien, personal or real property, or any other means, in any premises
43 licensed as an adult-use cannabis retail dispensary or in any business
44 licensed as an adult-use cannabis retail dispensary or in any registered
45 organization registered pursuant to article three of this chapter.

46 § 70. Small business adult-use cooperative license. 1. A cooperative
47 license shall authorize the acquisition, possession, cultivation, proc-
48 essing and sale from the licensed premises of the adult-use cooperative
49 by such licensee to duly licensed distributors, on-site consumption
50 sites, and/or retail dispensaries; but not directly to cannabis consum-
51 ers.

52 2. To be licensed as a small business adult-use cooperative, the coop-
53 erative must:

54 (i) be comprised of residents of the state of New York as a limited
55 liability company or limited liability partnership under the laws of the

1 state, or an appropriate business structure as determined and authorized
2 by the board;

3 (ii) subordinate capital, both as regards control over the cooperative
4 undertaking, and as regards the ownership of the pecuniary benefits
5 arising therefrom;

6 (iii) be democratically controlled by the members themselves on the
7 basis of one vote per member;

8 (iv) vest in and allocate with priority to and among the members of
9 all increases arising from their cooperative endeavor in proportion to
10 the members' active participation in the cooperative endeavor; and

11 (v) the cooperative must operate according to the seven cooperative
12 principles published by the International Cooperative Alliance in nine-
13 teen hundred ninety-five.

14 3. A cooperative member shall be a natural person and shall not be a
15 member of more than one small business adult-use cooperative licensed
16 pursuant to this section.

17 4. No natural person or member of a small business adult-use cooper-
18 ative license may have a direct or indirect financial or controlling
19 interest in any other adult-use cannabis license issued pursuant to this
20 chapter.

21 5. No small business adult-use cannabis cooperative shall have a
22 direct or indirect interest, including by stock ownership, interlocking
23 directors, mortgage or lien, personal or real property, or any other
24 means, in any premises licensed as an adult-use cannabis retail dispen-
25 sary or in any business licensed as an adult-use cannabis retail dispen-
26 sary pursuant to this chapter.

27 6. The board shall promulgate regulations governing cooperative
28 licenses, including, but not limited to, the establishment of canopy
29 limits on the size and scope of cooperative licensees, and other meas-
30 ures designed to incentivize the use and licensure of cooperatives.

31 § 71. Adult-use distributor license. 1. A distributor's license shall
32 authorize the acquisition, possession, distribution and sale of cannabis
33 from the licensed premises of a licensed adult-use cultivator, process-
34 or, small business adult-use cooperative or microbusiness authorized
35 pursuant to this chapter to sell adult-use cannabis, to duly licensed
36 retail dispensaries.

37 2. No distributor shall have a direct or indirect economic interest in
38 any adult-use retail dispensary or in any adult-use cultivator or
39 processor licensed pursuant to this article, or in any registered organ-
40 ization registered pursuant to article three of this chapter. This
41 restriction shall not prohibit a registered organization authorized
42 pursuant to subdivision one of section thirty-nine of this chapter, from
43 being granted licensure by the board to distribute adult-use cannabis
44 products cultivated and processed by the registered organization to
45 licensed adult-use retail dispensaries owned and operated by such regis-
46 tered organization.

47 3. Nothing in subdivision two of this section shall prevent a distrib-
48 utor from charging an appropriate fee, authorized by the board, for the
49 distribution of cannabis, including based on the volume of cannabis
50 distributed.

51 § 72. Adult-use retail dispensary license. 1. A retail dispensary
52 license shall authorize the acquisition, possession, sale and delivery
53 of cannabis from the licensed premises of the retail dispensary by such
54 licensee to cannabis consumers.

1 2. No person may have a direct or indirect financial or controlling
2 interest in more than three adult-use retail dispensary licenses issued
3 pursuant to this chapter.

4 3. No person holding a retail dispensary license may also hold an
5 adult-use cultivation, processor, microbusiness, cooperative or distrib-
6 utor license pursuant to this article or be registered as a registered
7 organization pursuant to article three of this chapter, except for such
8 organizations licensed pursuant to sections sixty-eight-a and sixty-
9 eight-b of this article.

10 4. No retail license shall be granted for any premises, unless the
11 applicant shall be the owner thereof, or shall be able to demonstrate
12 possession of the premises within thirty days of initial approval of the
13 license through a lease, management agreement or other agreement giving
14 the applicant control over the premises, in writing, for a term not less
15 than the license period.

16 5. With the exception of microbusiness licensees, no premises shall be
17 licensed to sell cannabis products, unless said premises shall be
18 located in a store, the principal entrance to which shall be from the
19 street level and located on a public thoroughfare in premises which may
20 be occupied, operated or conducted for business, trade or industry.

21 6. No cannabis retail license shall be granted for any premises within
22 five hundred feet of a school grounds as such term is defined in the
23 education law.

24 § 73. Microbusiness license. 1. A microbusiness license shall author-
25 ize the limited cultivation, processing, distribution and dispensing of
26 their own adult-use cannabis and cannabis products.

27 2. A microbusiness licensee may not hold interest in any other license
28 and may only distribute its own cannabis and cannabis products to
29 dispensaries.

30 3. The size and scope of a microbusiness shall be determined by regu-
31 lation by the board in consultation with the executive director and the
32 state cannabis advisory board. Such licenses shall promote social and
33 economic equity applicants as provided for in this chapter.

34 § 74. Delivery license. A delivery license shall authorize the deliv-
35 ery of cannabis and cannabis products by licensees independent of anoth-
36 er adult-use cannabis license, provided that each delivery licensee may
37 have a total of no more than twenty-five individuals, or the equivalent
38 thereof, providing full-time paid delivery services, per week under one
39 license. For the purposes of this section the state cannabis advisory
40 board shall provide recommendations to the board for the application
41 process, license criteria, and scope of licensed activities for this
42 class of license. No person may have a direct or indirect financial or
43 controlling interest in more than one delivery license. Such licenses
44 shall promote social and economic equity applicants as provided for in
45 this chapter.

46 § 75. Nursery license. 1. A nursery license shall authorize the
47 production, sale and distribution of clones, immature plants, seeds, and
48 other agricultural products used specifically for the planting, propa-
49 gation, and cultivation of cannabis. For the purposes of this section,
50 the office shall provide recommendations to the board for the applica-
51 tion process, license criteria and scope of licensed activities for this
52 class of license. Such licenses shall promote social and economic equity
53 applicants as provided for in this chapter.

54 2. A person or entity holding a cultivators license may apply for, and
55 obtain, one nursery license to sell directly to other cultivators, coop-
56 eratives, or microbusinesses.

1 § 76. Notification to municipalities of adult-use retail dispensary or
2 on-site consumption license. 1. Not less than thirty days nor more than
3 two hundred seventy days before filing an application for licensure as
4 an adult-use retail dispensary or registered organization adult-use
5 cultivator processor distributor retail dispensary or an on-site
6 consumption licensee, an applicant shall notify the municipality in
7 which the premises is located of such applicant's intent to file such an
8 application.

9 2. Such notification shall be made to the clerk of the village, town
10 or city, as the case may be, wherein the premises is located. For
11 purposes of this section:

12 (a) notification need only be given to the clerk of a village when the
13 premises is located within the boundaries of the village; and

14 (b) in the city of New York, the community board established pursuant
15 to section twenty-eight hundred of the New York city charter with juris-
16 diction over the area in which the premises is located shall be consid-
17 ered the appropriate public body to which notification shall be given.

18 3. Such notification shall be made in such form as shall be prescribed
19 by the rules of the board.

20 4. When a city, town, or village, and in New York city a community
21 board, expresses an opinion for or against the granting of such regis-
22 tration, license or permit application, any such opinion shall be deemed
23 part of the record upon which the office makes its recommendation to the
24 board to grant or deny the application and the board shall respond in
25 writing to such city, town, village or community board with an explana-
26 tion of how such opinion was considered in the granting or denial of an
27 application.

28 5. Such notification shall be made by: (a) certified mail, return
29 receipt requested; (b) overnight delivery service with proof of mailing;
30 or (c) personal service upon the offices of the clerk or community
31 board.

32 6. The board shall require such notification to be on a standardized
33 form that can be obtained on the internet or from the board and such
34 notification to include:

35 (a) the trade name or "doing business as" name, if any, of the estab-
36 lishment;

37 (b) the full name of the applicant;

38 (c) the street address of the establishment, including the floor
39 location or room number, if applicable;

40 (d) the mailing address of the establishment, if different than the
41 street address;

42 (e) the name, address and telephone number of the attorney or repre-
43 sentative of the applicant, if any;

44 (f) a statement indicating whether the application is for:

45 (i) a new establishment;

46 (ii) a transfer of an existing licensed business;

47 (iii) a renewal of an existing license; or

48 (iv) an alteration of an existing licensed premises;

49 (g) if the establishment is a transfer or previously licensed prem-
50 ises, the name of the old establishment and such establishment's regis-
51 tration or license number;

52 (h) in the case of a renewal or alteration application, the registra-
53 tion or license number of the applicant; and

54 (i) the type of license.

55 § 77. Adult-use on-site consumption license; provisions governing
56 on-site consumption licenses. 1. No applicant shall be granted an

1 adult-use on-site consumption license for any premises, unless the
2 applicant shall be the owner thereof, or shall be in possession of said
3 premises under a lease, in writing, for a term not less than the license
4 period except, however, that such license may thereafter be renewed
5 without the requirement of a lease as provided in this section. This
6 subdivision shall not apply to premises leased from government agencies;
7 provided, however, that the appropriate administrator of such government
8 agency provides some form of written documentation regarding the terms
9 of occupancy under which the applicant is leasing said premises from the
10 government agency for presentation to the office at the time of the
11 license application. Such documentation shall include the terms of occu-
12 pancy between the applicant and the government agency, including, but
13 not limited to, any short-term leasing agreements or written occupancy
14 agreements.

15 2. No person may have a direct or indirect financial or controlling
16 interest in more than three adult-use on-site consumption licenses
17 issued pursuant to this chapter.

18 3. No person holding an adult-use on-site consumption license may also
19 hold an adult-use retail dispensary, cultivation, processor, microbusi-
20 ness, cooperative or distributor license pursuant to this article or be
21 registered as a registered organization pursuant to article three of
22 this chapter.

23 4. No applicant shall be granted an adult-use on-site consumption
24 license for any premises within five hundred feet of school grounds as
25 such term is defined in the education law.

26 5. The board may consider any or all of the following in determining
27 whether public convenience and advantage and the public interest will be
28 promoted by the granting of an adult-use on-site consumption license at
29 a particular location:

30 (a) that it is a privilege, and not a right, to cultivate, process,
31 distribute, and sell cannabis;

32 (b) the number, classes, and character of other licenses in proximity
33 to the location and in the particular municipality or subdivision there-
34 of;

35 (c) evidence that all necessary licenses and permits have been
36 obtained from the state and all other governing bodies;

37 (d) whether there is a demonstrated need for spaces to consume canna-
38 bis;

39 (e) effect of the grant of the license on pedestrian or vehicular
40 traffic, and parking, in proximity to the location;

41 (f) the existing noise level at the location and any increase in noise
42 level that would be generated by the proposed premises; and

43 (g) any other factors specified by law or regulation that are relevant
44 to determine that granting a license would promote public convenience
45 and advantage and the public interest of the community.

46 6. If the board shall disapprove an application for an on-site
47 consumption license, it shall state and file in its offices the reasons
48 therefor and shall notify the applicant thereof. Such applicant may
49 thereupon apply to the board for a review of such action in a manner to
50 be prescribed by the rules of the board.

51 7. No adult-use cannabis on-site consumption licensee shall keep upon
52 the licensed premises any adult-use cannabis products except those
53 purchased from a licensed distributor, adult-use cooperative, or micro-
54 business authorized to sell adult-use cannabis, and only in containers
55 approved by the board. Such containers shall have affixed thereto such
56 labels as may be required by the rules of the board. No adult-use

1 on-site consumption licensee shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.

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4 8. No adult-use on-site consumption licensee shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any cannabis for consumption on the premises where sold in a container or package containing a quantity or number of servings more than authorized by the board.

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9 9. No adult-use on-site consumption licensee shall suffer, permit or promote activities or events on its premises wherein any person shall use such premises for activities including, but not limited to, gambling, exposing or simulating, contests, or fireworks that are prohibited by subdivision six, six-a, six-b six-c or seven of section one hundred six of the alcoholic beverage control law or any other similar activities the board deems to be prohibited.

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16 10. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the board of controlling access to the facility.

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24 11. Each adult-use on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The board is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the board.

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44 12. All licensed adult-use on-site consumption premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the board, during the hours when the said premises are open for the transaction of business.

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49 13. An adult-use on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one. No person under the age of twenty-one shall be permitted on the premises of a cannabis on-site consumption facility.

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53 14. The provisions of article thirteen-E of the public health law restricting the smoking or vaping of cannabis shall not apply to adult-use on-site consumption premises.

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1 § 78. Record keeping and tracking. 1. The board shall, by regulation,
2 require each licensee pursuant to this article to adopt and maintain
3 security, tracking, record keeping, record retention and surveillance
4 systems, relating to all cannabis at every stage of acquiring,
5 possession, manufacture, sale, delivery, transporting, testing or
6 distributing by the licensee, subject to regulations of the board.

7 2. Every licensee shall keep and maintain upon the licensed premises.
8 Adequate books and records of all transactions involving the licensee
9 and sale of its products, which shall include, but is not limited to,
10 all information required by any rules promulgated by the board.

11 3. Each sale shall be recorded separately on a numbered invoice, which
12 shall have printed thereon the number, the name of the licensee, the
13 address of the licensed premises, and the current license number.
14 Licensed producers shall deliver to the licensed distributor a true
15 duplicate invoice stating the name and address of the purchaser, the
16 quantity purchased, description and the price of the product, and a
17 true, accurate and complete statement of the terms and conditions on
18 which such sale is made.

19 4. Such books, records and invoices shall be kept for a period of five
20 years and shall be available for inspection by any authorized represen-
21 tative of the board.

22 5. Each adult-use and registered organization adult-use cannabis
23 retail dispensary, microbusiness, and on-site consumption licensee shall
24 keep and maintain upon the licensed premises, adequate records of all
25 transactions involving the business transacted by such licensee which
26 shall show the amount of cannabis, in weight, purchased by such licensee
27 together with the names, license numbers and places of business of the
28 persons from whom the same were purchased, the amount involved in such
29 purchases, as well as the sales of cannabis made by such licensee.

30 § 79. Inspections and ongoing requirements. All licensed or permitted
31 premises, regardless of the type of premises, shall be subject to
32 inspection by the office, by the duly authorized representatives of the
33 board, by any peace officer acting pursuant to his or her special
34 duties, or by a police officer, during the hours when the said premises
35 are open for the transaction of business. The board shall make reason-
36 able accommodations so that ordinary business is not interrupted and
37 safety and security procedures are not compromised by the inspection. A
38 person who holds a license or permit must make himself or herself, or an
39 agent thereof, available and present for any inspection required by the
40 board. Such inspection may include, but is not limited to, ensuring
41 compliance by the licensee or permittee with all other applicable state
42 and local building codes, fire, health, safety, and other applicable
43 regulations.

44 § 80. Adult-use cultivators, processors or distributors not to be
45 interested in retail dispensaries. 1. It shall be unlawful for a culti-
46 vator, processor, cooperative or distributor licensed under this article
47 to:

48 (a) be interested directly or indirectly in any premises where any
49 cannabis product is sold at retail; or in any business devoted wholly or
50 partially to the sale of any cannabis product at retail by stock owner-
51 ship, interlocking directors, mortgage or lien or any personal or real
52 property, or by any other means;

53 (b) make, or cause to be made, any loan to any person engaged in the
54 manufacture or sale of any cannabis product at wholesale or retail;

55 (c) make any gift or render any service of any kind whatsoever,
56 directly or indirectly, to any person licensed under this chapter which

1 in the judgment of the board may influence such licensee to purchase the
2 product of such cultivator or processor or distributor; or

3 (d) enter into any contract with any retail licensee whereby such
4 licensee agrees to confine his or her sales to cannabis products manu-
5 factured or sold by one or more such cultivator or processors or
6 distributors. Any such contract shall be void and subject the licenses
7 of all parties concerned to revocation for cause.

8 2. The provisions of this section shall not prohibit a registered
9 organization authorized pursuant to section thirty-nine, sixty-eight-a
10 or sixty-eight-b of this chapter, from cultivating, processing, or sell-
11 ing adult-use cannabis under this article, at facilities wholly owned
12 and operated by such registered organization, subject to any conditions,
13 limitations or restrictions established by this chapter.

14 3. The board shall develop rules and regulations, in regard to this
15 section and, in consultation with the state cannabis advisory board.

16 § 81. Packaging and labeling of adult-use cannabis products. 1. The
17 board is hereby authorized to promulgate rules and regulations governing
18 the advertising, branding, marketing, packaging and labeling of cannabis
19 products, sold or possessed for sale in New York state, including rules
20 pertaining to the accuracy of information and rules restricting market-
21 ing and advertising to youth.

22 2. Such regulations shall include, but not be limited to, requiring
23 that:

24 (a) packaging meets requirements similar to the federal "poison
25 prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

26 (b) all cannabis-infused products shall have a separate packaging for
27 each serving;

28 (c) prior to delivery or sale at a retailer, cannabis and cannabis
29 products shall be labeled and placed in a resealable, child-resistant
30 package; and

31 (d) packages and labels shall not be made to be attractive to minors.

32 3. Such regulations shall include requiring labels warning consumers
33 of any potential impact on human health resulting from the consumption
34 of cannabis products that shall be affixed to those products when sold,
35 if such labels are deemed warranted by the board.

36 4. Such rules and regulations shall establish methods and procedures
37 for determining serving sizes for cannabis-infused products and active
38 cannabis concentration per serving size. Such regulations shall also
39 require a nutritional fact panel that incorporates data regarding serv-
40 ing sizes and potency thereof.

41 5. The packaging, sale, marketing, branding, advertising, labeling or
42 possession by any licensee of any cannabis product not labeled or
43 offered in conformity with rules and regulations promulgated in accord-
44 ance with this section shall be grounds for the imposition of a fine,
45 and/or the suspension, revocation or cancellation of a license in
46 accordance with the provisions of this chapter.

47 § 82. Laboratory testing. 1. Every processor of adult-use cannabis
48 shall contract with an independent laboratory permitted pursuant to
49 section one hundred twenty-nine of this chapter, to test the cannabis
50 products it produces pursuant to rules and regulations prescribed by the
51 office. The board may assign an approved testing laboratory, which the
52 processor of adult-use cannabis must use.

53 2. Adult-use cannabis processors shall make laboratory test reports
54 available to licensed distributors and retail dispensaries for all
55 cannabis products manufactured by the processor.

1 3. Licensed retail dispensaries shall maintain accurate documentation
2 of laboratory test reports for each cannabis product offered for sale to
3 cannabis consumers. Such documentation shall be made publicly available
4 by the licensed retail dispensary.

5 4. Onsite laboratory testing by licensees is permissible; however,
6 such testing shall not be certified by the board and does not exempt the
7 licensee from the requirements of quality assurance testing at a testing
8 laboratory pursuant to this section.

9 5. An owner of a cannabis laboratory testing permit shall not hold a
10 license in any other category within this article and shall not own or
11 have ownership interest in a registered organization registered pursuant
12 to article three of this chapter.

13 6. The board shall have the authority to require any licensee under
14 this article to submit cannabis or cannabis products to one or more
15 independent laboratories for testing.

16 § 83. Provisions governing the cultivation and processing of adult-use
17 cannabis. 1. No cultivator or processor of adult-use cannabis shall
18 sell, or agree to sell or deliver in the state any cannabis products, as
19 the case may be, except in originally sealed containers containing quan-
20 tities in accordance with size standards pursuant to rules adopted by
21 the board. Such containers shall have affixed thereto such labels as may
22 be required by the rules of the board.

23 2. No cultivator or processor of adult-use cannabis shall furnish or
24 cause to be furnished to any licensee, any exterior or interior sign,
25 printed, painted, electric or otherwise, except as authorized by the
26 board. The board may make such rules as it deems necessary to carry out
27 the purpose and intent of this subdivision.

28 3. Cultivators of adult-use cannabis shall comply with plant culti-
29 vation regulations, standards, and guidelines consistent with the
30 provisions applicable to hemp, cannabinoid hemp, and hemp extract and
31 issued by the board, in consultation with the department of environ-
32 mental conservation and the department of agriculture and markets. Such
33 regulations, standards, and guidelines shall be guided by sustainable
34 farming principles and practices such as organic, regenerative, and
35 integrated pest management models, and shall restrict whenever possible,
36 the use of pesticides to those that are registered by the department of
37 environmental conservation or that specifically meet the United States
38 environmental protection agency registration exemption criteria for
39 minimum risk, used in compliance with rules, regulations, standards and
40 guidelines issued by the department of environmental conservation for
41 pesticides.

42 4. No cultivator or processor of adult-use cannabis, including an
43 adult-use cannabis cooperative or microbusiness, may offer any incen-
44 tive, payment or other benefit to a licensed cannabis distributor or
45 retail dispensary in return for carrying the cultivator, processor,
46 cooperative or microbusiness products, or preferential shelf placement.

47 5. All cannabis products shall be processed in accordance with good
48 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of
49 Federal Regulations, as may be modified by the board in regulation.

50 6. No processor of adult-use cannabis shall produce any product which,
51 in the discretion of the board, is designed to appeal to anyone under
52 the age of twenty-one years.

53 7. The use or integration of alcohol or nicotine in cannabis products
54 is strictly prohibited.

55 § 84. Provisions governing the distribution of adult-use cannabis. 1.
56 No distributor shall sell, or agree to sell or deliver any cannabis

1 products, as the case may be, in any container, except in a sealed pack-
2 age. Such containers shall have affixed thereto such labels as may be
3 required by the rules of the board.

4 2. No distributor shall deliver any cannabis products, except in vehi-
5 cles owned and operated by such distributor, or hired and operated by
6 such distributor from a trucking or transportation company registered
7 with the board, and shall only make deliveries at the licensed premises
8 of the purchaser.

9 3. Each distributor shall keep and maintain upon the licensed prem-
10 ises, adequate books and records of all transactions involving the busi-
11 ness transacted by such distributor, which shall show the amount of
12 cannabis products purchased by such distributor together with the names,
13 license numbers and places of business of the persons from whom the same
14 was purchased and the amount involved in such purchases, as well as the
15 amount of cannabis products sold by such distributor together with the
16 names, addresses, and license numbers of such purchasers. Each sale
17 shall be recorded separately on a numbered invoice, which shall have
18 printed thereon the number, the name of the licensee, the address of the
19 licensed premises, and the current license number. Such distributor
20 shall deliver to the purchaser a true duplicate invoice stating the name
21 and address of the purchaser, the quantity of cannabis products,
22 description by brands and the price of such cannabis products, and a
23 true, accurate and complete statement of the terms and conditions on
24 which such sale is made. Such books, records and invoices shall be kept
25 for a period of five years and shall be available for inspection by any
26 authorized representative of the board.

27 4. No distributor shall furnish or cause to be furnished to any licen-
28 see, any exterior or interior sign, printed, painted, electric or other-
29 wise, unless authorized by the board.

30 5. No distributor shall provide any discount, rebate or customer
31 loyalty program to any licensed retailer, except as otherwise allowed by
32 the board.

33 6. The board is authorized to promulgate regulations establishing a
34 maximum margin for which a distributor may mark up a cannabis product
35 for sale to a retail dispensary. Any adult-use cannabis product sold by
36 a distributor for more than the maximum markup allowed in regulation,
37 shall be unlawful.

38 7. Each distributor shall keep and maintain upon the licensed prem-
39 ises, adequate books and records to demonstrate the distributor's actual
40 cost of doing business, using accounting standards and methods regularly
41 employed in the determination of costs for the purpose of federal income
42 tax reporting, for the total operation of the licensee. Such books,
43 records and invoices shall be kept for a period of five years and shall
44 be available for inspection by any authorized representative of the
45 office for use in determining the maximum markup allowed in regulation
46 pursuant to subdivision six of this section.

47 § 85. Provisions governing adult-use cannabis retail dispensaries. 1.
48 No cannabis retail licensee shall sell, deliver, or give away or cause
49 or permit or procure to be sold, delivered or given away any cannabis to
50 any person, actually or apparently, under the age of twenty-one years
51 or, visibly intoxicated or impaired.

52 2. Valid proof of age is required for each transaction. No licensee,
53 or agent or employee of such licensee shall accept as written evidence
54 of age by any such person for the purchase of any cannabis or cannabis
55 product, any documentation other than: (a) a valid driver's license or
56 non-driver identification card issued by the commissioner of motor vehi-

1 cles, the federal government, any United States territory, commonwealth
2 or possession, the District of Columbia, a state government within the
3 United States or a provincial government of the dominion of Canada, or
4 (b) a valid passport issued by the United States government or any other
5 country, or (c) an identification card issued by the armed forces of the
6 United States. Upon the presentation of such driver's license or non-
7 driver identification card issued by a governmental entity, such licen-
8 see or agent or employee thereof may perform a transaction scan as a
9 precondition to the sale of any cannabis or cannabis product. Nothing in
10 this section shall prohibit a licensee or agent or employee from
11 performing such a transaction scan on any of the other documents listed
12 in this subdivision if such documents include a bar code or magnetic
13 strip that may be scanned by a device capable of deciphering any elec-
14 tronically readable format. In instances where the information deci-
15 phered by the transaction scan fails to match the information printed on
16 the driver's license or non-driver identification card presented by the
17 card holder, or if the transaction scan indicates that the information
18 is false or fraudulent, the attempted purchase of the cannabis or canna-
19 bis product shall be denied.

20 3. No cannabis retail licensee shall sell alcoholic beverages, nor
21 have or possess a license or permit to sell alcoholic beverages, on the
22 same premises where cannabis products are sold.

23 4. No sign of any kind printed, painted or electric, advertising any
24 brand shall be permitted on the exterior or interior of such premises,
25 except by permission of the board.

26 5. No cannabis retail licensee shall sell or deliver any cannabis
27 products to any person with knowledge of, or with reasonable cause to
28 believe, that the person to whom such cannabis products are being sold,
29 has acquired the same for the purpose of selling or giving them away in
30 violation of the provisions of this chapter or in violation of the rules
31 and regulations of the board.

32 6. All premises licensed under this section shall be subject to
33 inspection by any peace officer described in subdivision four of section
34 2.10 of the criminal procedure law acting pursuant to his or her special
35 duties, or police officer or any duly authorized representative of the
36 board, during the hours when the said premises are open for the trans-
37 action of business.

38 7. No cannabis retail licensee shall be interested, directly or indi-
39 rectly, in any cultivator, processor, distributor or microbusiness oper-
40 ator licensed pursuant to this article, by stock ownership, interlocking
41 directors, mortgage or lien on any personal or real property or by any
42 other means. Any lien, mortgage or other interest or estate, however,
43 now held by such retailer on or in the personal or real property of such
44 manufacturer or distributor, which mortgage, lien, interest or estate
45 was acquired on or before December thirty-first, two thousand nineteen,
46 shall not be included within the provisions of this subdivision;
47 provided, however, the burden of establishing the time of the accrual of
48 the interest comprehended by this subdivision, shall be upon the person
49 who claims to be entitled to the protection and exemption afforded here-
50 by.

51 8. No cannabis retail licensee shall make or cause to be made any loan
52 to any person engaged in the cultivation, processing or distribution of
53 cannabis pursuant to this article.

54 9. Each cannabis retail licensee shall designate the price of each
55 item of cannabis by attaching to or otherwise displaying immediately
56 adjacent to each such item displayed in the interior of the licensed

1 premises where sales are made a price tag, sign or placard setting forth
2 the price at which each such item is offered for sale therein.

3 10. No person licensed to sell cannabis products at retail, shall
4 allow or permit any gambling, or offer any gambling on the licensed
5 premises, or allow or permit illicit drug activity on the licensed prem-
6 ises.

7 11. If an employee of an adult-use cannabis retail licensee suspects
8 that a cannabis consumer may be abusing cannabis, such an employee shall
9 encourage such cannabis consumer to seek help from a substance use
10 disorder program or harm reduction services. The board shall develop
11 standard operating procedures and written materials to be distributed to
12 cannabis retail licensees in consultation with the office of addiction
13 services and supports, for adult-use cannabis retail licensee employees
14 to utilize when interacting and/or consulting consumers for purposes of
15 this subdivision.

16 12. The board is authorized, to promulgate regulations governing
17 licensed adult-use dispensing facilities, including but not limited to,
18 the hours of operation, size and location of the licensed facility,
19 potency and types of products offered and establishing a minimum and
20 maximum margin for retail dispensary markups of cannabis product or
21 products before selling to a cannabis consumer. Any adult-use cannabis
22 product sold by a retail dispensary for less than the minimum markup
23 allowed in regulation, shall be unlawful.

24 § 86. Adult-use cannabis advertising. 1. The board shall promulgate
25 rules and regulations governing the advertising and marketing of
26 licensed cannabis and any cannabis products or services.

27 2. The board shall promulgate explicit rules prohibiting advertising
28 that:

- 29 (a) is false, deceptive, or misleading;
30 (b) promotes overconsumption;
31 (c) depicts consumption by children or other minors;
32 (d) is designed in any way to appeal to children or other minors;
33 (e) is within five hundred feet of the perimeter of a school grounds,
34 playground, child day care providers, public park, or library;
35 (f) is in public transit vehicles and stations;
36 (g) is in the form of an unsolicited internet pop-up;
37 (h) is on publicly owned or operated property; or
38 (i) makes medical claims or promotes adult-use cannabis for a medical
39 or wellness purpose.

40 3. The board shall promulgate explicit rules prohibiting all marketing
41 strategies and implementation including, but not limited to, branding,
42 packaging, labeling, location of cannabis retailers, and advertisements
43 that are designed to:

- 44 (a) appeal to persons less than twenty-one years of age; or
45 (b) disseminate false or misleading information to customers.

46 4. The board shall promulgate explicit rules requiring that:

- 47 (a) all advertisements and marketing accurately and legibly identify
48 the licensee or other business responsible for its content; and
49 (b) any broadcast, cable, radio, print and digital communications
50 advertisements only be placed where the audience is reasonably expected
51 to be twenty-one years of age or older, as determined by reliable,
52 up-to-date audience composition data.

53 § 87. Social and economic equity, minority and women-owned businesses,
54 disadvantaged farmers and service-disabled veterans; incubator program.

55 1. The board, in consultation with the state cannabis advisory board and
56 the chief equity officer, and after receiving public input shall create

1 and implement a social and economic equity plan and actively promote
2 applicants from communities disproportionately impacted by cannabis
3 prohibition, and promote racial, ethnic, and gender diversity when issu-
4 ing licenses for adult-use cannabis related activities, including
5 mentoring potential applicants, by prioritizing consideration of appli-
6 cations by applicants who are from communities disproportionately
7 impacted by the enforcement of cannabis prohibition or who qualify as a
8 minority or women-owned business, disadvantaged farmers, or service
9 disabled veterans. Such qualifications shall be determined by the
10 board, in consultation with the state cannabis advisory board and the
11 chief equity officer, in regulation.

12 2. The board's social and economic equity plan shall also promote
13 diversity in commerce, ownership and employment, and opportunities for
14 social and economic equity in the adult-use cannabis industry. A goal
15 shall be established to award fifty percent of adult-use cannabis
16 licenses to social and economic equity applicants and ensure inclusion
17 of:

18 (a) individuals from communities disproportionately impacted by the
19 enforcement of cannabis prohibition;

20 (b) minority-owned businesses;

21 (c) women-owned businesses;

22 (d) minority and women-owned businesses, as defined in paragraph (d)
23 of subdivision five of this section;

24 (e) disadvantaged farmers, as defined in subdivision five of this
25 section; and

26 (f) service-disabled veterans.

27 3. The social and economic equity plan shall require the consideration
28 of additional criteria in its licensing determinations. Under the social
29 and economic equity plan, extra priority shall be given to applications
30 that demonstrate that an applicant:

31 (a) is a member of a community disproportionately impacted by the
32 enforcement of cannabis prohibition;

33 (b) has an income lower than eighty percent of the median income of
34 the county in which the applicant resides; and

35 (c) was convicted of a marijuana-related offense prior to the effec-
36 tive date of this chapter, or had a parent, guardian, child, spouse, or
37 dependent, or was a dependent of an individual who, prior to the effec-
38 tive date of this chapter, was convicted of a marijuana-related offense.

39 4. The board in consultation with the cannabis advisory board and the
40 chief equity officer, shall also create an incubator program to encour-
41 age social and economic equity applicants to apply and, if granted an
42 adult-use cannabis license, permit or registration, the program shall
43 provide direct support in the form of counseling services, education,
44 small business coaching and financial planning, and compliance assist-
45 ance.

46 5. For the purposes of this section, the following definitions shall
47 apply:

48 (a) "Minority-owned business" shall mean a business enterprise,
49 including a sole proprietorship, partnership, limited liability company
50 or corporation that is:

51 (i) at least fifty-one percent owned by one or more minority group
52 members;

53 (ii) an enterprise in which such minority ownership is real, substan-
54 tial and continuing;

1 (iii) an enterprise in which such minority ownership has and exercises
2 the authority to control independently the day-to-day business decisions
3 of the enterprise;

4 (iv) an enterprise authorized to do business in this state and inde-
5 pendently owned and operated; and

6 (v) an enterprise that is a small business.

7 (b) "Minority group member" shall mean a United States citizen or
8 permanent resident alien who is and can demonstrate membership in one of
9 the following groups:

10 (i) black persons having origins in any of the black African racial
11 groups;

12 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
13 Central or South American of either Indian or Hispanic origin, regard-
14 less of race;

15 (iii) Native American or Alaskan native persons having origins in any
16 of the original peoples of North America; or

17 (iv) Asian and Pacific Islander persons having origins in any of the
18 far east countries, south east Asia, the Indian subcontinent or the
19 Pacific islands.

20 (c) "Women-owned business" shall mean a business enterprise, including
21 a sole proprietorship, partnership, limited liability company or corpo-
22 ration that is:

23 (i) at least fifty-one percent owned by one or more United States
24 citizens or permanent resident aliens who are women;

25 (ii) an enterprise in which the ownership interest of such women is
26 real, substantial and continuing;

27 (iii) an enterprise in which such women ownership has and exercises
28 the authority to control independently the day-to-day business decisions
29 of the enterprise;

30 (iv) an enterprise authorized to do business in this state and inde-
31 pendently owned and operated; and

32 (v) an enterprise that is a small business.

33 (d) A firm owned by a minority group member who is also a woman may be
34 defined as a minority-owned business, a women-owned business, or both.

35 (e) "Disadvantaged farmer" shall mean a New York state resident or
36 business enterprise, including a sole proprietorship, partnership,
37 limited liability company or corporation, that has reported at least
38 two-thirds of its federal gross income as income from farming, in at
39 least one of the past five preceding tax years, and who:

40 (i) farms in a county that has greater than ten percent rate of pover-
41 ty according to the latest U.S. Census Bureau's American Communities
42 Survey;

43 (ii) has been disproportionately impacted by low commodity prices or
44 faces the loss of farmland through development or suburban sprawl; and

45 (iii) meets any other qualifications as defined in regulation by the
46 board.

47 (f) "Service-disabled veterans" shall mean persons qualified under
48 article seventeen-B of the executive law.

49 (g) "Communities disproportionately impacted" shall mean, but not be
50 limited to, a history of arrests, convictions, and other law enforcement
51 practices in a certain geographic area, such as, but not limited to,
52 precincts, zip codes, neighborhoods, and political subdivisions,
53 reflecting a disparate enforcement of cannabis prohibition during a
54 certain time period, when compared to the rest of the state. The board
55 shall, in consultation with the state cannabis advisory board and the
56 chief equity officer, issue guidelines to determine how to assess which

1 communities have been disproportionately impacted and how to assess if
2 someone is a member of a community disproportionately impacted.

3 6. The board shall actively promote applicants that foster racial,
4 ethnic, and gender diversity in their workforce.

5 7. Licenses issued under the social and economic equity plan shall not
6 be transferred or sold within the first three years of issue, except to
7 a qualified social and economic equity applicant and with the prior
8 written approval of the board. In the event a social and economic equity
9 applicant seeks to transfer or sell their license at any point after
10 issue and the transferee is to a person or entity that does not qualify
11 as a social and economic equity applicant, the transfer agreement shall
12 require the new license holder to pay to the board any outstanding
13 amount owed by the transferor to the board as repayment of any loan
14 issued by the board as well as any other fee or assessment as determined
15 by the board.

16 § 88. Data collection and reporting. The board shall collect demo-
17 graphic data on owners and employees in the adult-use cannabis industry
18 and shall annually publish such data in its annual report.

19 § 89. Regulations. The board shall promulgate regulations in consul-
20 tation with the state cannabis advisory board to implement this article.

21 ARTICLE 5

22 CANNABINOID HEMP AND HEMP EXTRACT

23 Section 90. Definitions.

24 91. Rulemaking authority.

25 92. Cannabinoid hemp processor license.

26 93. Cannabinoid hemp retailer license.

27 94. Cannabinoid license applications.

28 95. Information to be requested in applications for licenses.

29 96. Fees.

30 97. Selection criteria.

31 98. License renewal.

32 99. Form of license.

33 100. Transferability; amendment to license; change in ownership
34 or control.

35 101. Granting, suspending or revoking licenses.

36 102. Record keeping and tracking.

37 103. Packaging and labeling of cannabinoid hemp and hemp
38 extract.

39 104. Processing of cannabinoid hemp and hemp extract.

40 105. Laboratory testing.

41 106. New York hemp product.

42 107. Penalties.

43 108. Hemp workgroup.

44 109. Prohibitions.

45 110. Special use permits.

46 111. Severability.

47 § 90. Definitions. As used in this article, the following terms shall
48 have the following meanings, unless the context clearly requires other-
49 wise:

50 1. "Cannabinoid" means the phytocannabinoids found in hemp and does
51 not include synthetic cannabinoids as that term is defined in subdivi-
52 sion (g) of schedule I of section thirty-three hundred six of the public
53 health law.

1 2. "Cannabinoid hemp" means any hemp and any product processed or
2 derived from hemp, that is used for human consumption provided that when
3 such product is packaged or offered for retail sale to a consumer, it
4 shall not have a concentration of more than three tenths of a percent
5 delta-9 tetrahydrocannabinol.

6 3. "Used for human consumption" means intended by the manufacturer or
7 distributor to be: (a) used for human consumption for its cannabinoid
8 content; or (b) used in, on or by the human body for its cannabinoid
9 content.

10 4. "Hemp" means the plant Cannabis sativa L. and any part of such
11 plant, including the seeds thereof and all derivatives, extracts, canna-
12 binoids, isomers, acids, salts, and salts of isomers, whether growing or
13 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more
14 than three-tenths of a percent on a dry weight basis. It shall not
15 include "medical cannabis" as defined in section three of this chapter.

16 5. "Hemp extract" means all derivatives, extracts, cannabinoids, isom-
17 ers, acids, salts, and salts of isomers derived from hemp, used or
18 intended for human consumption, for its cannabinoid content, with a
19 delta-9 tetrahydrocannabinol concentration of not more than an amount
20 determined by the board in regulation. For the purpose of this article,
21 hemp extract excludes (a) any food, food ingredient or food additive
22 that is generally recognized as safe pursuant to federal law; or (b) any
23 hemp extract that is not used for human consumption. Such excluded
24 substances shall not be regulated pursuant to the provisions of this
25 article but are subject to other provisions of applicable state law,
26 rules and regulations.

27 6. "License" means a license issued pursuant to this article.

28 7. "Cannabinoid hemp processor license" means a license granted by the
29 board to process, extract, pack or manufacture cannabinoid hemp or hemp
30 extract into products, whether in intermediate or final form, used for
31 human consumption.

32 8. "Processing" means extracting, preparing, treating, modifying,
33 compounding, manufacturing or otherwise manipulating cannabinoid hemp to
34 concentrate or extract its cannabinoids, or creating product, whether in
35 intermediate or final form, used for human consumption. For purposes of
36 this article, processing does not include: (a) growing, cultivation,
37 cloning, harvesting, drying, curing, grinding or trimming when author-
38 ized pursuant to article twenty-nine of the agriculture and markets law;
39 or

40 (b) mere transportation, such as by common carrier or another entity
41 or individual.

42 § 91. Rulemaking authority. The board may make regulations pursuant to
43 this article for the processing, distribution, marketing, transportation
44 and sale of cannabinoid hemp and hemp extracts used for human consump-
45 tion, which may include, but not be limited to:

46 1. Specifying forms, establishing application, reasonable adminis-
47 tration and renewal fees, or license duration;

48 2. Establishing the qualifications and criteria for licensing, as
49 authorized by law;

50 3. The books and records to be created and maintained by licensees and
51 lawful procedures for their inspection;

52 4. Any reporting requirements;

53 5. Methods and standards of processing, labeling, packaging and
54 marketing of cannabinoid hemp, hemp extract and products derived there-
55 from;

1 6. Procedures for how cannabinoid hemp, hemp extract or ingredients,
2 additives, or products derived therefrom can be deemed as acceptable for
3 sale in the state;

4 7. Provisions governing the modes and forms of administration, includ-
5 ing inhalation;

6 8. Procedures for determining whether cannabinoid hemp, hemp extract
7 or ingredients, additives, or products derived therefrom produced
8 outside the state or within the state meet the standards and require-
9 ments of this article and can therefore be sold within the state;

10 9. Procedures for the granting, cancellation, revocation or suspension
11 of licenses, consistent with the state administrative procedures act;

12 10. Restrictions governing the advertising and marketing of cannabi-
13 noid hemp, hemp extract and products derived therefrom; and

14 11. Any other regulations necessary to implement this article.

15 § 92. Cannabinoid hemp processor license. 1. Persons processing canna-
16 binoid hemp or hemp extract used for human consumption, whether in
17 intermediate or final form, shall be required to obtain a cannabinoid
18 hemp processor license from the board.

19 2. A cannabinoid hemp processor license authorizes one or more specif-
20 ic activities related to the processing of cannabinoid hemp into
21 products used for human consumption, whether in intermediate or final
22 form, and the distribution or sale thereof by the licensee. Nothing
23 herein shall prevent a cannabinoid hemp processor from processing,
24 extracting and processing hemp products not to be used for human
25 consumption.

26 3. Persons authorized to grow hemp pursuant to article twenty-nine of
27 the agriculture and markets law are not authorized to engage in process-
28 ing of cannabinoid hemp or hemp extract without first being licensed as
29 a cannabinoid hemp processor under this article.

30 4. This article shall not apply to hemp, cannabinoid hemp, hemp
31 extracts or products derived therefrom that are not used for human
32 consumption. This article also shall not apply to hemp, cannabinoid
33 hemp, hemp extracts or products derived therefrom that have been deemed
34 generally recognized as safe pursuant to federal law.

35 5. The board shall have the authority to set reasonable fees for such
36 license, to limit the activities permitted by such license, to establish
37 the period during which such license is authorized, which shall be two
38 years or more, and to make rules and regulations necessary to implement
39 this section.

40 6. Any person holding an active research partnership agreement with
41 the department of agriculture and markets, authorizing that person to
42 process cannabinoid hemp, shall be awarded licensure under this section,
43 provided that the research partner is actively performing research
44 pursuant to such agreement and is able to demonstrate compliance with
45 this article, as determined by the board, after notice and an opportu-
46 nity to be heard.

47 § 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabi-
48 noid hemp, in final form to consumers within the state, shall be
49 required to obtain a cannabinoid hemp retailer license from the board.

50 2. The board shall have the authority to set reasonable fees for such
51 license, to establish the period during which such license is author-
52 ized, which shall be one year or more, and to make rules and regulations
53 necessary to implement this section.

54 § 94. Cannabinoid license applications. 1. Persons shall apply for a
55 license under this article by submitting an application upon a form
56 supplied by the board, providing all the relevant requested information,

1 verified by the applicant or an authorized representative of the appli-
2 cant.

3 2. A separate license shall be required for each facility at which
4 processing or retail sales are conducted; however, an applicant may
5 submit one application for separate licensure at multiple locations.

6 3. Each applicant shall remit with its application the fee for each
7 requested license, which shall be a reasonable fee.

8 § 95. Information to be requested in applications for licenses. 1. The
9 board may specify the manner and form in which an application shall be
10 submitted to the board for licensure under this article.

11 2. The board may adopt regulations establishing what relevant informa-
12 tion shall be included on an application for licensure under this arti-
13 cle. Such information may include, but is not limited to: information
14 about the applicant's identity; ownership and investment information,
15 including the corporate structure; evidence of good moral character;
16 financial statements; information about the premises to be licensed;
17 information about the activities to be licensed; and any other relevant
18 information specified in regulation.

19 3. All license applications shall be signed by the applicant if an
20 individual, by a managing partner if a limited liability company, by an
21 officer if a corporation, or by all partners if a partnership. Each
22 person signing such application shall verify it as true under the penal-
23 ties of perjury.

24 4. All license applications shall be accompanied by a check, draft or
25 other forms of payment as the board may require or authorize in the
26 reasonable amount required by this article for such license.

27 5. If there be any change, after the filing of the application or the
28 granting, modification or renewal of a license, in any of the material
29 facts required to be set forth in such application, a supplemental
30 statement giving notice of such change, duly verified, shall be filed
31 with the board within ten days after such change. Failure to do so, if
32 willful and deliberate, may be grounds for revocation of the license.

33 § 96. Fees. The board may charge licensees a reasonable license fee.
34 Such fee may be based on the activities permitted by the license, the
35 amount of cannabinoid hemp or hemp extract to be processed or extracted
36 by the licensee, the gross annual receipts of the licensee for the
37 previous license period, or any other factors reasonably deemed appro-
38 priate by the board.

39 § 97. Selection criteria. 1. The applicant, if an individual or indi-
40 viduals, shall furnish evidence of the individual's good moral charac-
41 ter, and if an entity, the applicant shall furnish evidence of the good
42 moral character of the individuals who have or will have substantial
43 responsibility for the licensed or authorized activity and those in
44 control of the entity, including principals, officers, or others with
45 such control.

46 2. The applicant shall furnish evidence of the applicant's experience
47 and competency, and that the applicant has or will have adequate facili-
48 ties, equipment, process controls, and security to undertake those
49 activities for which licensure is sought.

50 3. The applicant shall furnish evidence of his, her or its ability to
51 comply with all applicable state and local laws, rules and regulations.

52 4. If the board is not satisfied that the applicant should be issued a
53 license, the board shall notify the applicant in writing of the specific
54 reason or reasons for denial.

55 5. No license pursuant to this article may be issued to an individual
56 under the age of eighteen years.

1 § 98. License renewal. 1. Each license, issued pursuant to this arti-
2 cle, may be renewed upon application therefor by the licensee and the
3 payment of the reasonable fee for such license as specified by this
4 article.

5 2. In the case of applications for renewals, the board may dispense
6 with the requirements of such statements as it deems unnecessary in view
7 of those contained in the application made for the original license.

8 3. The board shall provide an application for renewal of any license
9 issued under this article not less than ninety days prior to the expira-
10 tion of the current license.

11 4. The board may only issue a renewal license upon receipt of the
12 specified renewal application and renewal fee from a licensee if, in
13 addition to the selection criteria set out in this article, the
14 licensee's license is not under suspension and has not been revoked.

15 § 99. Form of license. Licenses issued pursuant to this article shall
16 specify:

17 1. The name and address of the licensee;

18 2. The activities permitted by the license;

19 3. The land, buildings and facilities that may be used for the
20 licensed activities of the licensee;

21 4. A unique license number issued by the board to the licensee; and

22 5. Such other information as the board shall deem necessary to assure
23 compliance with this article.

24 § 100. Transferability; amendment to license; change in ownership or
25 control. 1. Licenses issued under this article are not transferable,
26 absent written consent of the board.

27 2. Upon application of a licensee, a license may be amended to add or
28 delete permitted activities.

29 3. A license shall become void by a change in ownership, substantial
30 corporate change or change of location without prior written approval of
31 the board. The board may make regulations allowing for certain types of
32 changes in ownership without the need for prior written approval.

33 § 101. Granting, suspending or revoking licenses. After due notice and
34 an opportunity to be heard, established by rules and regulations, the
35 board may decline to grant a new license, impose conditions or limits
36 with respect to the grant of a license, modify an existing license or
37 decline to renew a license, and may suspend or revoke a license already
38 granted after due notice and an opportunity to be heard, as established
39 by rules and regulations, whenever the board finds that:

40 1. A material statement contained in an application is or was false or
41 misleading;

42 2. The applicant or licensee, or a person in a position of management
43 and control thereof or of the licensed activity, does not have good
44 moral character, necessary experience or competency, adequate facili-
45 ties, equipment, process controls, or security to process, distribute,
46 transport or sell cannabinoid hemp, hemp extract or products derived
47 therefrom;

48 3. After appropriate notice and opportunity, the applicant or licensee
49 has failed or refused to produce any records or provide any information
50 required by this article or the regulations promulgated pursuant there-
51 to;

52 4. The licensee has conducted activities outside of those activities
53 permitted on its license; or

54 5. The applicant or licensee, or any officer, director, partner, or
55 any other person exercising any position of management or control there-
56 of or of the licensed activity has willfully failed to comply with any

1 of the provisions of this article or regulations under it and other laws
2 of this state applicable to the licensed activity.

3 § 102. Record keeping and tracking. Every licensee shall keep, in such
4 form as the board may direct, such relevant records as may be required
5 pursuant to regulations under this article.

6 § 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1.
7 Cannabinoid hemp processors shall be required to provide appropriate
8 label warning to consumers, and restricted from making unapproved label
9 claims, as determined by the board, concerning the potential impact on
10 or benefit to human health resulting from the use of cannabinoid hemp,
11 hemp extract and products derived therefrom for human consumption, which
12 labels shall be affixed to those products when sold, pursuant to rules
13 and regulations that the board may adopt.

14 2. The board may, by rules and regulations, require processors to
15 establish a code, including, but not limited to QR code, for labels and
16 establish methods and procedures for determining, among other things,
17 serving sizes or dosages for cannabinoid hemp, hemp extract and products
18 derived therefrom, active cannabinoid concentration per serving size,
19 number of servings per container, and the growing region, state or coun-
20 try of origin if not from the United States. Such rules and regulations
21 may require an appropriate fact panel that incorporates data regarding
22 serving sizes and potency thereof.

23 3. The packaging, sale, or possession of products derived from canna-
24 binoid hemp or hemp extract used for human consumption not labeled or
25 offered in conformity with regulations under this section shall be
26 grounds for the seizure or quarantine of the product, the imposition of
27 a civil penalty against a processor or retailer, and the suspension,
28 revocation or cancellation of a license, in accordance with this arti-
29 cle.

30 § 104. Processing of cannabinoid hemp and hemp extract. 1. No process-
31 or shall sell or agree to sell or deliver in the state any cannabinoid
32 hemp, hemp extract or product derived therefrom, used for human consump-
33 tion, except in sealed containers containing quantities in accordance
34 with size standards pursuant to rules adopted by the board. Such
35 containers shall have affixed thereto such labels as may be required by
36 the rules of the board.

37 2. Processors shall take such steps necessary to ensure that the
38 cannabinoid hemp or hemp extract used in their processing operation has
39 only been grown with pesticides that are registered by the department of
40 environmental conservation or that specifically meet the United States
41 environmental protection agency registration exemption criteria for
42 minimum risk, used in compliance with rules, regulations, standards and
43 guidelines issued by the department of environmental conservation for
44 pesticides.

45 3. All cannabinoid hemp, hemp extract and products derived therefrom
46 used for human consumption shall be extracted and processed in accord-
47 ance with good manufacturing processes pursuant to Part 117 or Part 111
48 of title 21 of the code of federal regulations, as may be defined, modi-
49 fied and decided upon by the board in rules or regulations.

50 4. As necessary to protect human health, the board shall have the
51 authority to: (a) regulate and prohibit specific ingredients, excipients
52 or methods used in processing cannabinoid hemp, hemp extract and
53 products derived therefrom; and (b) prohibit, or expressly allow,
54 certain products or product classes derived from cannabinoid hemp or
55 hemp extract, to be processed.

1 § 105. Laboratory testing. Every cannabinoid hemp processor shall
2 contract with an independent commercial laboratory to test the hemp
3 extract and products produced by the licensed processor. The board shall
4 establish the necessary qualifications or certifications required for
5 such laboratories used by licensees. The board is authorized to issue
6 rules and regulations consistent with this article establishing the
7 testing required, the reporting of testing results and the form for
8 reporting such laboratory testing results. The board has authority to
9 require licensees to submit any cannabinoid hemp, hemp extract or prod-
10 uct derived therefrom, processed or offered for sale within the state,
11 for testing by the board. This section shall not obligate the board, in
12 any way, to perform any testing on hemp, cannabinoid hemp, hemp extract
13 or product derived therefrom.

14 § 106. New York hemp product. The board may establish and adopt offi-
15 cial grades and standards for cannabinoid hemp, hemp extract and
16 products derived therefrom, as the board may deem advisable, which are
17 produced for sale in this state and, from time to time, may amend or
18 modify such grades and standards.

19 § 107. Penalties. Notwithstanding the provision of any law to the
20 contrary, the failure to comply with a requirement of this article, or a
21 regulation thereunder, may be punishable by a civil penalty of not more
22 than one thousand dollars for a first violation; not more than five
23 thousand dollars for a second violation within three years; and not more
24 than ten thousand dollars for a third violation and each subsequent
25 violation thereafter, within three years.

26 § 108. Hemp workgroup. The board, in consultation with the commission-
27 er of the department of agriculture and markets, may appoint a New York
28 state hemp and hemp extract workgroup, composed of growers, researchers,
29 producers, processors, manufacturers and trade associations, to make
30 recommendations for the industrial hemp and cannabinoid hemp programs,
31 state and federal policies and policy initiatives, and opportunities for
32 the promotion and marketing of cannabinoid hemp and hemp extract as
33 consistent with federal and state laws, rules and regulations.

34 § 109. Prohibitions. 1. Except as authorized by the United States food
35 and drug administration, the processing of cannabinoid hemp or hemp
36 extract used for human consumption is prohibited within the state unless
37 the processor is licensed under this article.

38 2. Cannabinoid hemp and hemp extracts used for human consumption and
39 grown or processed outside the state shall not be distributed or sold at
40 retail within the state, unless they meet all standards established for
41 cannabinoid hemp under state law and regulations.

42 3. The retail sale of cannabinoid hemp is prohibited in this state
43 unless the retailer is licensed under this article.

44 § 110. Special use permits. The board shall have the authority to
45 issue temporary permits for carrying on any activity related to cannabi-
46 noid hemp, hemp extract and products derived therefrom, licensed under
47 this article. The board may set reasonable fees for such permits, to
48 establish the periods during which such permits are valid, and to make
49 rules and regulations to implement this section.

50 § 111. Severability. If any provision of this article or the applica-
51 tion thereof to any person or circumstances is held invalid, such inva-
52 lidity shall not affect other provisions or applications of this article
53 which can be given effect without the invalid provision or application,
54 and to this end the provisions of this article are declared to be sever-
55 able.

ARTICLE 6
GENERAL PROVISIONS

Section 125. General prohibitions and restrictions.

126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis.

127. Protections for the use of cannabis; unlawful discriminations prohibited.

128. Permits, registrations and licenses.

129. Laboratory testing permits.

130. Special use permits.

131. Local opt-out; municipal control and preemption.

132. Penalties for violation of this chapter.

133. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.

134. Lawful actions pursuant to this chapter.

135. Review by courts.

136. Illicit cannabis.

137. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products.

138. Access to criminal history information through the division of criminal justice services.

139. Severability.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis or cannabinoid hemp or hemp extract product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter unless otherwise authorized by law.

2. No registered organization, licensee, or permittee or other entity under the jurisdiction of the board shall sell, or agree to sell or deliver in this state any cannabis or cannabinoid hemp or hemp extract for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee or other entity under the jurisdiction of the board shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of twenty-one years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis.

4. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any cannabis, cannabis product, or medical cannabis on credit; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, or medical cannabis for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

5. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall cease to be operated as a bona fide or legitimate premises within the contemplation of the regis-

1 tration, license, or permit issued for such premises, as determined
2 within the judgment of the board.

3 6. No registered organization, licensee, or permittee, or other entity
4 under the jurisdiction of the board, shall refuse, nor any person hold-
5 ing a registration, license, or permit refuse, nor any officer or direc-
6 tor of any corporation or organization holding a registration, license,
7 or permit refuse, to appear and/or testify under oath at an inquiry or
8 hearing held by the board, with respect to any matter bearing upon the
9 registration, license, or permit, the conduct of any people at the
10 licensed premises, or bearing upon the character or fitness of such
11 registrant, licensee, or permittee, or other entity under the jurisdic-
12 tion of the board, to continue to hold any registration, license, or
13 permit. Nor shall any of the above offer false testimony under oath at
14 such inquiry or hearing.

15 7. No registered organization, licensee, or permittee, or other entity
16 under the jurisdiction of the board, shall engage, participate in, or
17 aid or abet any violation of any provision of this chapter, or the rules
18 or regulations of the board.

19 8. It shall be the responsibility of the registered organization,
20 licensee or permittee, or other entity under the jurisdiction of the
21 board, to exercise adequate supervision over the registered, licensed or
22 permitted location. Persons registered, licensed, or permitted shall be
23 held strictly accountable for any and all violations that occur upon any
24 registered, licensed, or permitted premises, and for any and all
25 violations committed by or permitted by any manager, agent or employee
26 of such registered, licensed, or permitted person.

27 9. It shall be unlawful for any person, partnership or corporation
28 operating a place for profit or pecuniary gain, with a capacity for the
29 assemblage of twenty or more persons to permit a person or persons to
30 come to the place of assembly for the purpose of cultivating, process-
31 ing, distributing, or retail distribution or sale of cannabis or canna-
32 bis products on said premises. This includes, but is not limited, to,
33 cannabis or cannabis products that are either provided by the operator
34 of the place of assembly, their agents, servants or employees, or canna-
35 bis that is brought onto said premises by the person or persons assembl-
36 ing at such place, unless an appropriate registration, license, or
37 permit has first been obtained from the board by the operator of said
38 place of assembly.

39 10. No adult-use cannabis or medical cannabis may be imported to, or
40 exported out of, New York state by a registered organization, licensee
41 or person holding a license and/or permit pursuant to this chapter,
42 until such time as it may become legal to do so under federal law.
43 Should it become legal to do so under federal law, the board may promul-
44 gate such rules and regulations as it deems necessary to protect the
45 public and the policy of the state, including to prioritize and promote
46 New York cannabis. Further, all such cannabis or cannabis products must
47 be distributed in a manner consistent with the provisions of this chap-
48 ter.

49 11. No registered organization, licensee or any of its agents, serv-
50 ants or employees shall sell any cannabis product, or medical cannabis
51 from house to house by means of a truck or otherwise, where the sale is
52 consummated and delivery made concurrently at the residence or place of
53 business of a cannabis consumer. This subdivision shall not prohibit the
54 delivery by a registered organization to certified patients or their
55 designated caregivers, pursuant to article three of this chapter.

1 12. No licensee shall employ any canvasser or solicitor for the
2 purpose of receiving an order from a certified patient, designated care-
3 giver or cannabis consumer for any cannabis product, or medical cannabis
4 at the residence or place of business of such patient, caregiver or
5 consumer, nor shall any licensee receive or accept any order, for the
6 sale of any cannabis product, or medical cannabis which shall be solici-
7 ited at the residence or place of business of a patient, caregiver or
8 consumer. This subdivision shall not prohibit the solicitation by a
9 distributor of an order from any licensee at the licensed premises of
10 such licensee.

11 § 126. License to be confined to premises licensed; premises for which
12 no license shall be granted; transporting cannabis. 1. A registration,
13 license, or permit issued to any person, pursuant to this chapter, for
14 any registered, licensed, or permitted premises shall not be transfera-
15 ble to any other person, to any other location or premises, or to any
16 other building or part of the building containing the licensed premises
17 except in the discretion of the office. All privileges granted by any
18 registration, license, or permit shall be available only to the person
19 therein specified, and only for the premises licensed and no other
20 except if authorized by the board. Provided, however, that the
21 provisions of this section shall not be deemed to prohibit the amendment
22 of a registration or license as provided for in this chapter. A
23 violation of this section shall subject the registration, license, or
24 permit to revocation for cause.

25 2. Where a registration or license for premises has been revoked, the
26 board in its discretion may refuse to issue a registration, license, or
27 permit under this chapter, for a period of up to five years after such
28 revocation, for such premises or for any part of the building containing
29 such premises and connected therewith.

30 3. In determining whether to issue such a proscription against grant-
31 ing any registration, license, or permit for such five-year period, in
32 addition to any other factors deemed relevant to the board, the board
33 shall, in the case of a license revoked due to the sale of cannabis to a
34 person under the age of twenty-one not otherwise authorized by this
35 chapter, determine whether the proposed subsequent licensee has obtained
36 such premises through an arm's length transaction, and, if such trans-
37 action is not found to be an arm's length transaction, the office shall
38 deny the issuance of such license.

39 4. For purposes of this section, "arm's length transaction" shall mean
40 a sale of a fee of all undivided interests in real property, lease,
41 management agreement, or other agreement giving the applicant control
42 over the cannabis at the premises, or any part thereof, in the open
43 market, between an informed and willing buyer and seller where neither
44 is under any compulsion to participate in the transaction, unaffected by
45 any unusual conditions indicating a reasonable possibility that the sale
46 was made for the purpose of permitting the original licensee to avoid
47 the effect of the revocation. The following sales shall be presumed not
48 to be arm's length transactions unless adequate documentation is
49 provided demonstrating that the sale, lease, management agreement, or
50 other agreement giving the applicant control over the cannabis at the
51 premises, was not conducted, in whole or in part, for the purpose of
52 permitting the original licensee to avoid the effect of the revocation:

- 53 (a) a sale between relatives;
54 (b) a sale between related companies or partners in a business; or
55 (c) a sale, lease, management agreement, or other agreement giving the
56 applicant control over the cannabis at the premises, affected by other

1 facts or circumstances that would indicate that the sale, lease, manage-
2 ment agreement, or other agreement giving the applicant control over the
3 cannabis at the premises, is entered into for the primary purpose of
4 permitting the original licensee to avoid the effect of the revocation.

5 5. No registered organization, licensee or permittee shall transport
6 cannabis products or medical cannabis except in vehicles owned and oper-
7 ated by such registered organization, licensee or permittee, or hired
8 and operated by such registered organization, licensee or permittee from
9 a trucking or transportation company permitted and registered with the
10 board.

11 6. No common carrier or person operating a transportation facility in
12 this state, other than the United States government, shall knowingly
13 receive for transportation or delivery within the state any cannabis
14 products or medical cannabis unless the shipment is accompanied by copy
15 of a bill of lading, or other document, showing the name and address of
16 the consignor, the name and address of the consignee, the date of the
17 shipment, and the quantity and kind of cannabis products or medical
18 cannabis contained therein.

19 § 127. Protections for the use of cannabis; unlawful discriminations
20 prohibited. 1. No person, registered organization, licensee or permit-
21 tee, employees, or their agents shall be subject to arrest, prosecution,
22 or penalty in any manner, or denied any right or privilege, including
23 but not limited to civil liability or disciplinary action by a business
24 or occupational or professional licensing board or office, solely for
25 conduct permitted under this chapter. For the avoidance of doubt, the
26 appellate division of the supreme court of the state of New York, and
27 any disciplinary or character and fitness committees established by law
28 are occupational and professional licensing boards within the meaning of
29 this section. State or local law enforcement agencies shall not cooper-
30 ate with or provide assistance to the government of the United States or
31 any agency thereof in enforcing the federal controlled substances act
32 solely for actions consistent with this chapter, except as pursuant to a
33 valid court order.

34 2. No school or landlord may refuse to enroll or lease to and may not
35 otherwise penalize a person solely for conduct authorized under this
36 chapter, except as exempted:

37 (a) if failing to do so would cause the school or landlord to lose a
38 monetary or licensing related benefit under federal law or regulations;

39 (b) if the institution has adopted a code of conduct prohibiting
40 cannabis use on the basis of religious belief; or

41 (c) if a property is registered with the New York smoke-free housing
42 registry, it is not required to permit the smoking of cannabis products
43 on its premises.

44 3. For the purposes of medical care, including organ transplants, a
45 certified patient's authorized use of medical cannabis must be consid-
46 ered the equivalent of the use of any other medication under the direc-
47 tion of a practitioner and does not constitute the use of an illicit
48 substance or otherwise disqualify a registered qualifying patient from
49 medical care.

50 4. (a) No employer shall take adverse employment action against an
51 employee for using cannabis, unless (i) such employee's usage is
52 governed by state or local law or rule, or a collective bargaining
53 agreement that: (1) limits or prohibits the usage of cannabis while
54 performing the employee's job duties; (2) limits or prohibits the usage
55 of cannabis as a condition of attaining or maintaining a license,
56 certification, or professional status required for employment; or (3)

1 governs the testing and disciplinary procedures related to the use of
2 cannabis by employees; and (ii) the employee's usage is in violation of
3 such state or local law or rules, or collective bargaining agreement.

4 (b) Employees whose usage of medical cannabis is governed by state or
5 local law or rules, or a collective bargaining agreement that: (i)
6 limits or prohibits the usage of cannabis while performing the employ-
7 ee's job duties; (ii) limits or prohibits the usage of cannabis as a
8 condition of attaining or maintaining a license, certification, or
9 professional status required for employment; or (iii) governs the test-
10 ing and disciplinary procedures related to the use of cannabis by
11 employees, shall be afforded the same rights, procedures and protections
12 that are available and applicable to injured workers under the workers'
13 compensation law, or any rules or regulations promulgated thereunder,
14 when such injured workers are prescribed medications that may prohibit,
15 restrict, or require the modification of the performance of their
16 duties.

17 (c) Employees shall not face adverse employment actions for usage of
18 cannabis, as such conduct is permitted under this chapter, prior to the
19 beginning or after the conclusion of the employee's work hours, and off
20 of the employer's premises and without use of the employer's equipment
21 or other property.

22 (d) No employer shall take adverse employment action against an appli-
23 cant for employment, or otherwise discriminate against or refuse to
24 interview an applicant for employment, for using cannabis as such
25 conduct is permitted under this chapter.

26 5. Nothing in this section shall interfere with an employer's obli-
27 gation to provide a safe and healthy work place, free from recognized
28 hazards, as required by state and federal occupation safety and health
29 law or require an employer to commit any act that would cause the
30 employer to be in violation of any other federal law, or that would
31 result in the loss of a federal contract or federal funding.

32 6. Nothing in this section shall restrict an employer's ability to
33 prohibit or take adverse employment action for the possession or use of
34 intoxicating substances during work hours, or require an employer to
35 commit any act that would cause the employer to be in violation of
36 federal law, or that would result in the loss of a federal contract or
37 federal funding. For the purposes of this section, an employer may
38 consider an employee's ability to perform the employee's job responsi-
39 bilities to be impaired when the employee manifests specific articulable
40 symptoms while working that decrease or lessen the employee's perform-
41 ance of the duties or tasks of the employee's job position.

42 7. As used in this section, "adverse employment action" means refusing
43 to hire or employ, barring or discharging from employment, requiring a
44 person to retire from employment, or discriminating against in compen-
45 sation or in terms, conditions, or privileges of employment.

46 8. No person may be denied custody of or visitation or parenting time
47 with a minor, for conduct allowed under section 222.05 of the penal law,
48 unless the child's physical, mental or emotional condition has been
49 impaired, or is in imminent danger of becoming impaired as a result of
50 the person's behavior as established by a fair preponderance of the
51 evidence. For the purposes of this section, this determination cannot be
52 based solely on whether, when, and how often a person uses cannabis
53 without separate evidence of harm.

54 § 128. Permits, registrations and licenses. 1. No permit, registra-
55 tion or license shall be transferable or assignable except that notwith-
56 standing any other provision of law, the permit, registration or license

1 of a sole proprietor converting to corporate form, where such proprietor
2 becomes the sole stockholder and only officer and director of such new
3 corporation, may be transferred to the subject corporation if all
4 requirements of this chapter remain the same with respect to such
5 permit, registration or license as transferred and, further, the regis-
6 tered organization or licensee shall transmit to the board, within ten
7 days of the transfer of license allowable under this subdivision, on a
8 form prescribed by the board, notification of the transfer of such
9 license.

10 2. No permit, registration or license shall be pledged or deposited as
11 collateral security for any loan or upon any other condition; and any
12 such pledge or deposit, and any contract providing therefor, shall be
13 void.

14 3. Permits, registrations and licenses issued under this chapter shall
15 contain, in addition to any further information or material to be
16 prescribed by the rules and regulations of the board, the following
17 information:

18 (a) name of the person to whom the license is issued;

19 (b) type of license and what type of cannabis commerce is thereby
20 permitted;

21 (c) description by street and number, or otherwise, of licensed prem-
22 ises; and

23 (d) a statement in substance that such license shall not be deemed a
24 property or vested right, and that it may be revoked at any time pursu-
25 ant to law.

26 § 129. Laboratory testing permits. 1. The board shall approve and
27 permit one or more independent cannabis testing laboratories to test
28 medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp
29 extract.

30 2. To be permitted as an independent cannabis laboratory, a laboratory
31 must apply to the board, on a form and in a manner prescribed by the
32 office, and must demonstrate the following to the satisfaction of the
33 board:

34 (a) the owners and directors of the laboratory are of good moral char-
35 acter;

36 (b) the laboratory and its staff has the skills, resources and exper-
37 tise needed to accurately and consistently perform all of the testing
38 required for adult-use cannabis, medical cannabis and/or cannabinoid
39 hemp or hemp extract;

40 (c) the laboratory has in place and will maintain adequate policies,
41 procedures, and facility security to ensure proper: collection, label-
42 ing, accessioning, preparation, analysis, result reporting, disposal and
43 storage of adult-use cannabis, and/or medical cannabis;

44 (d) the laboratory is physically located in New York state;

45 (e) the laboratory has been approved by the department of health
46 pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regu-
47 lations, pertaining to laboratories performing environmental analysis;
48 and

49 (f) the laboratory meets any and all requirements prescribed by this
50 chapter and by the board in regulation.

51 3. The owner of a laboratory testing permit under this section shall
52 not hold a permit, registration or license in any category of this chap-
53 ter and shall not have any direct or indirect ownership interest in such
54 registered organization or licensee. No board member, officer, manager,
55 owner, partner, principal stakeholder or member of a registered organ-
56 ization or licensee under this chapter, or such person's immediate fami-

1 ly member, shall have an interest or voting rights in any laboratory
2 testing permittee.

3 4. The board shall require that the permitted laboratory report test-
4 ing results to the board in a manner, form and timeframe as determined
5 by the office.

6 5. The board is authorized to promulgate regulations, requiring
7 permitted laboratories to perform certain tests and services.

8 6. A laboratory granted a laboratory testing permit under this chapter
9 shall not required to be licensed by the federal drug enforcement agen-
10 cy.

11 § 130. Special use permits. The board is hereby authorized to issue
12 the following kinds of permits for carrying on activities consistent
13 with the policy and purpose of this chapter with respect to cannabis.
14 The board has the authority to set fees for all permits issued pursuant
15 to this section, to establish the periods during which permits are
16 authorized, and to make rules and regulations, including emergency regu-
17 lations, to implement this section.

18 1. Industrial cannabis permit - to purchase cannabis from one of the
19 entities licensed by the board for use in the manufacture and sale of
20 any of the following, when such cannabis is not otherwise suitable for
21 consumption purposes, namely: (a) apparel, energy, paper, and tools;
22 (b) scientific, chemical, mechanical and industrial products; or (c) any
23 other industrial use as determined by the board in regulation.

24 2. Trucking permit - to allow for the trucking or transportation of
25 cannabis products, or medical cannabis by a person other than a regis-
26 tered organization or licensee under this chapter.

27 3. Warehouse permit - to allow for the storage of cannabis, cannabis
28 products, or medical cannabis at a location not otherwise registered or
29 licensed by the office.

30 4. Packaging permit - to authorize a licensed cannabis distributor to
31 sort, package, label and bundle cannabis products from one or more
32 registered organizations or licensed processors, on the premises of the
33 licensed cannabis distributor or at a warehouse for which a permit has
34 been issued under this section.

35 § 131. Local opt-out; municipal control and preemption. 1. The
36 provisions of article four of this chapter authorizing the retail sale
37 of adult-use cannabis to cannabis consumers shall not be applicable to a
38 town, city or village which, after a mandatory referendum held pursuant
39 to section twenty-three of the municipal home rule law, adopts a local
40 law to prohibit the establishment or operation of retail dispensary
41 licenses contained in article four of this chapter, within the jurisdic-
42 tion of the town, city or village. Provided, however, that any town law
43 shall apply to the area of the town outside of any village within such
44 town.

45 2. Except as provided for in subdivision one of this section, all
46 county, town, city and village governing bodies are hereby preempted
47 from adopting any rule, ordinance, regulation or prohibition pertaining
48 to the operation or licensure of registered organizations, adult-use
49 cannabis licenses or hemp licenses. However, municipalities may pass
50 local laws and ordinances governing the time, place and manner of
51 licensed adult-use cannabis retail dispensaries, provided such ordinance
52 or regulation does not make the operation of such licensed retail
53 dispensaries unreasonably impracticable as determined by the board in
54 consultation with the state cannabis advisory board.

55 § 132. Penalties for violation of this chapter. 1. Any person who
56 cultivates for sale or sells cannabis, cannabis products, or medical

1 cannabis without having an appropriate registration, license or permit
2 therefor, or whose registration, license, or permit has been revoked,
3 surrendered or cancelled, may be subject to prosecution in accordance
4 with article two hundred twenty-two of the penal law.

5 2. Any registered organization or licensee, who has received notifica-
6 tion of a registration or license suspension pursuant to the provisions
7 of this chapter, who sells cannabis, cannabis products, medical cannabis
8 or cannabinoid hemp or hemp extract during the suspension period, shall
9 be subject to prosecution as provided in article two hundred twenty-two
10 of the penal law, and upon conviction thereof under this section may be
11 subject to a civil penalty of not more than five thousand dollars.

12 3. Any person who shall knowingly make any material false statement in
13 the application for a registration, license or a permit under this chap-
14 ter may be subject to a civil penalty of not more than two thousand
15 dollars.

16 4. Any person under the age of twenty-one found to be in possession of
17 cannabis or cannabis products who is not a certified patient pursuant to
18 article three of this chapter shall be in violation of this chapter and
19 shall be subject to the following penalty:

20 (a) (i) The person shall be subject to a civil penalty of not more
21 than fifty dollars. The civil penalty shall be payable to the office of
22 cannabis management.

23 (ii) Any identifying information provided by the enforcement agency
24 for the purpose of facilitating payment of the civil penalty shall not
25 be shared or disclosed under any circumstances with any other agency or
26 law enforcement division.

27 (b) The person shall, upon payment of the required civil penalty, be
28 provided with information related to the dangers of underage use of
29 cannabis and information related to cannabis use disorder by the office.

30 (c) The issuance and subsequent payment of such civil penalty shall in
31 no way qualify as a criminal accusation, admission of guilt, or a crimi-
32 nal conviction and shall in no way operate as a disqualification of any
33 such person from holding public office, attaining public employment, or
34 as a forfeiture of any right or privilege.

35 5. Cannabis recovered from individuals who are found to be in
36 violation of this chapter may after notice and opportunity for a hearing
37 be considered a nuisance and shall be disposed of or destroyed.

38 § 133. Revocation of registrations, licenses and permits for cause;
39 procedure for revocation or cancellation. 1. Any registration, license
40 or permit issued pursuant to this chapter may be revoked, cancelled,
41 suspended and/or subjected to the imposition of a civil penalty for
42 cause, and there shall be a rebuttable presumption of revocation for the
43 following causes:

44 (a) conviction of the registered organization, licensee, permittee or
45 his or her agent or employee for selling any illicit cannabis on the
46 premises registered, licensed or permitted; or

47 (b) for transferring, assigning or hypothecating a registration,
48 license or permit without prior written approval of the office.

49 2. Notwithstanding the issuance of a registration, license or permit
50 by way of renewal, the board may revoke, cancel or suspend such regis-
51 tration, license or permit and/or may impose a civil penalty against any
52 holder of such registration, license or permit, as prescribed by this
53 section, for causes or violations occurring during the license period
54 immediately preceding the issuance of such registration, license or
55 permit.

1 3. (a) As used in this section, the term "for cause" shall also
2 include the existence of a sustained and continuing pattern of miscon-
3 duct, failure to adequately prevent diversion or disorder on or about
4 the registered, licensed or permitted premises, or in the area in front
5 of or adjacent to the registered or licensed premises, or in any parking
6 lot provided by the registered organization or licensee for use by
7 registered organization or licensee's patrons, which significantly
8 adversely affects or tends to significantly adversely affect the
9 protection, health, welfare, safety, or repose of the inhabitants of the
10 area in which the registered or licensed premises is located.

11 (b) (i) As used in this section, the term "for cause" shall also
12 include deliberately misleading the board or office of cannabis manage-
13 ment:

14 (A) as to the nature and character of the business to be operated by
15 the registered organization, licensee or permittee; or

16 (B) by substantially altering the nature or character of such business
17 during the registration or licensing period without seeking appropriate
18 approvals from the board.

19 (ii) As used in this subdivision, the term "substantially altering the
20 nature or character" of such business shall mean any significant and
21 material alteration in the scope of business activities conducted by a
22 registered organization, licensee or permittee that would require
23 obtaining an alternate form of registration, license or permit.

24 4. As used in this chapter, the existence of a sustained and continu-
25 ing pattern of misconduct, failure to adequately prevent diversion or
26 disorder on or about the premises may be presumed upon the sixth inci-
27 dent reported to the board by a law enforcement agency, or discovered by
28 the board during the course of any investigation, of misconduct, diver-
29 sion or disorder on or about the premises or related to the operation of
30 the premises, absent clear and convincing evidence of either fraudulent
31 intent on the part of any complainant or a factual error with respect to
32 the content of any report concerning such complaint relied upon by the
33 board.

34 5. Notwithstanding any other provision of this chapter to the contra-
35 ry, a suspension imposed under this section against the holder of a
36 registration issued pursuant to article three of this chapter, shall
37 only suspend the licensed activities related to the type of cannabis,
38 medical cannabis or adult-use cannabis involved in the violation result-
39 ing in the suspension.

40 6. Any registration, license or permit issued by the board pursuant to
41 this chapter may be revoked, cancelled or suspended and/or be subjected
42 to the imposition of a monetary penalty set forth in this chapter in the
43 manner prescribed by this section.

44 7. The board may on its own initiative, or on complaint of any person,
45 institute proceedings to revoke, cancel or suspend any adult-use canna-
46 bis retail dispensary license or adult-use cannabis on-site consumption
47 license and may impose a civil penalty against the licensee after a
48 hearing at which the licensee shall be given an opportunity to be heard.
49 Such hearing shall be held in such manner and upon such notice as may be
50 prescribed in regulation by the board.

51 8. All other registrations, licenses or permits issued under this
52 chapter may be revoked, cancelled, suspended and/or made subject to the
53 imposition of a civil penalty by the office after a hearing to be held
54 in such manner and upon such notice as may be prescribed in regulation
55 by the board.

1 9. Where a licensee or permittee is convicted of two or more qualify-
2 ing offenses within a five-year period, the office, upon receipt of
3 notification of such second or subsequent conviction, shall, in addition
4 to any other sanction or civil or criminal penalty imposed pursuant to
5 this chapter, impose on such licensee a civil penalty not to exceed ten
6 thousand dollars. For purposes of this subdivision, a qualifying offense
7 shall mean the sale of cannabis to a person under the age of twenty-one
8 not otherwise authorized by this chapter. For purposes of this subdivi-
9 sion only, a conviction of a licensee or an employee or agent of such
10 licensee shall constitute a conviction of such licensee.

11 § 134. Lawful actions pursuant to this chapter. 1. Contracts related
12 to the operation of registered organizations, licenses and permits under
13 this chapter shall be lawful and shall not be deemed unenforceable on
14 the basis that the actions permitted pursuant to the registration,
15 license or permit are prohibited by federal law.

16 2. The following actions are not unlawful as provided under this chap-
17 ter, shall not be an offense under any state or local law, and shall not
18 result in any civil penalty, fine, seizure, or forfeiture of assets, or
19 be the basis for detention or search against any person acting in
20 accordance with this chapter:

21 (a) Actions of a registered organization, licensee, or permittee, or
22 the employees or agents of such registered organization, licensee or
23 permittee, as permitted by this chapter and consistent with rules and
24 regulations of the office, pursuant to a valid registration, license or
25 permit issued by the board.

26 (b) Actions of those who allow property to be used by a registered
27 organization, licensee, or permittee, or the employees or agents of such
28 registered organization, licensee or permittee, as permitted by this
29 chapter and consistent with rules and regulations of the office, pursu-
30 ant to a valid registration, license or permit issued by the board.

31 (c) Actions of any person or entity, their employees, or their agents
32 providing a service to a registered organization, licensee, permittee or
33 a potential registered organization, licensee, or permittee, as permit-
34 ted by this chapter and consistent with rules and regulations of the
35 office, relating to the formation of a business.

36 (d) The purchase, cultivation, possession, or consumption of cannabis,
37 and medical cannabis, as permitted by law, and consistent with rules and
38 regulations of the board.

39 § 135. Review by courts. An action by the board shall be subject to
40 review by the supreme court in the manner provided in article seventy-
41 eight of the civil practice law and rules including, but not limited to:

42 (a) Refusal by the board to issue a registration, license, or a
43 permit.

44 (b) The revocation, cancellation or suspension of a registration,
45 license, or permit by the board.

46 (c) The failure or refusal by the board to render a decision upon any
47 application or hearing submitted to or held by the board within sixty
48 days after such submission or hearing.

49 (d) The transfer by the board of a registration, license, or permit to
50 any other entity or premises, or the failure or refusal by the board to
51 approve such a transfer.

52 (e) Refusal to approve alteration of premises.

53 (f) Refusal to approve a corporate change in stockholders, stockhold-
54 ings, officers or directors.

55 § 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any
56 cannabis product or medical cannabis that is owned, cultivated, distrib-

1 uted, bought, sold, packaged, rectified, blended, treated, fortified,
2 mixed, processed, warehoused, possessed or transported for which any tax
3 required to have been paid under any applicable state law has not been
4 paid.

5 2. Any person holding a license, permit or registration under this
6 chapter who shall knowingly possess or have under his or her control any
7 cannabis known by the person to be illicit cannabis is guilty of a class
8 B misdemeanor.

9 3. Any person holding a license, permit or registration pursuant to
10 this chapter who shall knowingly barter, exchange, give or sell, or
11 offer to barter, exchange, give or sell any cannabis known by the person
12 to be illicit cannabis is guilty of a misdemeanor.

13 4. Any person holding a license, permit or registration pursuant to
14 this chapter who shall knowingly possess or have under his or her
15 control or transport any cannabis known by the person to be illicit
16 cannabis with intent to barter, exchange, give or sell such cannabis is
17 guilty of a class B misdemeanor.

18 5. Any person who, being the owner, lessee or occupant of any room,
19 shed, tenement, booth, building, float, vessel or part thereof knowingly
20 permits the same to be used for the cultivation, processing, distrib-
21 ution, purchase, sale, warehousing, transportation or storage of any
22 illicit cannabis is guilty of a violation.

23 § 137. Persons forbidden to traffic cannabis; certain officials not to
24 be interested in manufacture or sale of cannabis products. 1. The
25 following are forbidden to traffic in cannabis except in extraordinary
26 circumstances as determined by the board:

27 (a) An individual who has been convicted of an offense related to the
28 functions or duties of owning and operating a business within three
29 years of the application date, except that if the board determines that
30 the owner or licensee is otherwise suitable to be issued a license, and
31 the board determines granting the license is not inconsistent with
32 public safety, the board shall conduct a thorough review of the nature
33 of the crime, conviction, circumstances and evidence of rehabilitation
34 of the owner in accordance with article twenty-three-A of the correction
35 law, and shall evaluate the suitability of the owner or licensee to be
36 issued a license based on the evidence found through the review. In
37 determining which offenses are substantially related to the functions or
38 duties of owning and operating a business, the board shall include, but
39 not be limited to, the following:

40 (i) a felony conviction within the past five years involving fraud,
41 money laundering, forgery and other unlawful conduct related to owning
42 and operating a business; and

43 (ii) a felony conviction within the past five years for hiring,
44 employing, or using a minor in transporting, carrying, selling, giving
45 away, preparing for sale, or peddling, any controlled substance to a
46 minor; or selling, offering to sell, furnishing, offering to furnish,
47 administering, or giving any controlled substance to a minor.

48 (b) A person under the age of twenty-one years;

49 (c) A partnership or a corporation, unless each member of the partner-
50 ship, or each of the principal officers and directors of the corpo-
51 ration, is a citizen of the United States or a person lawfully admitted
52 for permanent residence in the United States, not less than twenty-one
53 years of age; provided however that a corporation which otherwise
54 conforms to the requirements of this section and chapter may be licensed
55 if each of its principal officers and more than one-half of its direc-
56 tors are citizens of the United States or persons lawfully admitted for

1 permanent residence in the United States; and provided further that a
2 corporation organized under the not-for-profit corporation law or the
3 education law which otherwise conforms to the requirements of this
4 section and chapter may be licensed if each of its principal officers
5 and directors are not less than twenty-one years of age; and provided,
6 further, that a corporation organized under the not-for-profit corpo-
7 ration law or the education law and located on the premises of a college
8 as defined by section two of the education law which otherwise conforms
9 to the requirements of this section and chapter may be licensed if each
10 of its principal officers and each of its directors are not less than
11 twenty-one years of age;

12 (d) A person who shall have had any registration or license issued
13 under this chapter revoked for cause, until the expiration of one year
14 from the date of such revocation;

15 (e) A person not registered or licensed under the provisions of this
16 chapter, who has been convicted of a misdemeanor or felony in violation
17 of this chapter, until the expiration of one year from the date of such
18 conviction; or

19 (f) A corporation or partnership, if any officer and director or any
20 partner, while not licensed under the provisions of this chapter, has
21 been convicted of a misdemeanor or felony in violation of this chapter,
22 or has had a registration or license issued under this chapter revoked
23 for cause, until the expiration of up to one year from the date of such
24 conviction or revocation as determined by the board.

25 2. Except as may otherwise be provided for in regulation, it shall be
26 unlawful for any chief of police, police officer or subordinate of any
27 police department in the state, to be either directly or indirectly
28 interested in the cultivation, processing, distribution, or sale of
29 cannabis products or to offer for sale, or recommend to any registered
30 organization or licensee any cannabis products. A person may not be
31 denied any registration or license granted under the provisions of this
32 chapter solely on the grounds of being the spouse or domestic partner of
33 a public servant described in this section. The solicitation or recom-
34 mendation made to any registered organization or licensee, to purchase
35 any cannabis products by any police official or subordinate as hereina-
36 bove described, shall be presumptive evidence of the interest of such
37 official or subordinate in the cultivation, processing, distribution, or
38 sale of cannabis products.

39 3. No elected village officer shall be subject to the limitations set
40 forth in subdivision two of this section unless such elected village
41 officer shall be assigned duties directly relating to the operation or
42 management of the police department.

43 § 138. Access to criminal history information through the division of
44 criminal justice services. In connection with the administration of
45 this chapter, the board is authorized to request, receive and review
46 criminal history information through the division of criminal justice
47 services with respect to any person seeking a registration, license,
48 permit or authorization to cultivate, process, distribute or sell
49 medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract.
50 At the board's request, each person, member, principal and/or officer of
51 the applicant shall submit to the board his or her fingerprints in such
52 form and in such manner as specified by the division, for the purpose of
53 conducting a criminal history search identifying criminal convictions
54 and pending criminal charges and returning a report thereon in accord-
55 ance with the procedures and requirements established by the division
56 pursuant to the provisions of article thirty-five of the executive law,

1 which shall include the payment of the reasonable prescribed processing
2 fees for the cost of the division's full search and retain procedures
3 and a national criminal history record check. The board, or their designee,
4 shall submit such fingerprints and the processing fee to the division. The
5 division shall forward to the board a report with respect to the applicant's
6 previous criminal history, if any, or a statement that the applicant has no
7 previous criminal history according to its files. Fingerprints submitted to
8 the division pursuant to this subdivision may also be submitted to the federal
9 bureau of investigation for a national criminal history record check. If
10 additional copies of fingerprints are required, the applicant shall furnish
11 them upon request. Upon receipt of such criminal history information, the
12 board shall provide such applicant with a copy of such criminal history
13 information, together with a copy of article twenty-three-A of the correction
14 law, and inform such applicant of his or her right to seek correction of
15 any incorrect information contained in such criminal history information
16 pursuant to regulations and procedures established by the division of
17 criminal justice services.

19 § 139. Severability. If any provision of this chapter or application
20 thereof to any person or circumstances is held invalid, such invalidity
21 shall not affect other provisions or applications of this chapter that
22 can be given effect without the invalid provision or application, and to
23 this end the provisions of this chapter are declared severable.

24 § 3. Section 3302 of the public health law, as added by chapter 878 of
25 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
26 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 23, 24, 25,
27 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
28 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
29 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
30 subdivision 20, the opening paragraph of subdivision 22 and subdivision
31 29 as amended by chapter 163 of the laws of 1973, subdivision 21 as
32 amended by chapter 1 of the laws of 2020, subdivision 31 as amended by
33 section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as
34 added by section 6 of part A of chapter 447 of the laws of 2012, and
35 subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of
36 the laws of 2014, is amended to read as follows:

37 § 3302. Definitions of terms of general use in this article. Except
38 where different meanings are expressly specified in subsequent
39 provisions of this article, the following terms have the following meanings:
40

41 1. "Addict" means a person who habitually uses a controlled substance
42 for a non-legitimate or unlawful use, and who by reason of such use is
43 dependent thereon.

44 2. "Administer" means the direct application of a controlled
45 substance, whether by injection, inhalation, ingestion, or any other
46 means, to the body of a patient or research subject.

47 3. "Agent" means an authorized person who acts on behalf of or at the
48 direction of a manufacturer, distributor, or dispenser. No person may be
49 authorized to so act if under title VIII of the education law such
50 person would not be permitted to engage in such conduct. It does not
51 include a common or contract carrier, public warehouseman, or employee
52 of the carrier or warehouseman when acting in the usual and lawful
53 course of the carrier's or warehouseman's business.

54 4. [~~"Concentrated Cannabis" means~~
55 ~~(a) the separated resin, whether crude or purified, obtained from a~~
56 ~~plant of the genus Cannabis, or~~

~~1 (b) a material, preparation, mixture, compound or other substance
2 which contains more than two and one half percent by weight of delta-9
3 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering
4 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1-(6) mono-
5 terpene numbering system.~~

6 ~~5-~~] "Controlled substance" means a substance or substances listed in
7 section thirty-three hundred six of this ~~[chapter]~~ title.

8 ~~[6-]~~ 5. "Commissioner" means commissioner of health of the state of
9 New York.

10 ~~[7-]~~ 6. "Deliver" or "delivery" means the actual, constructive or
11 attempted transfer from one person to another of a controlled substance,
12 whether or not there is an agency relationship.

13 ~~[8-]~~ 7. "Department" means the department of health of the state of
14 New York.

15 ~~[9-]~~ 8. "Dispense" means to deliver a controlled substance to an ulti-
16 mate user or research subject by lawful means, including by means of the
17 internet, and includes the packaging, labeling, or compounding necessary
18 to prepare the substance for such delivery.

19 ~~[10-]~~ 9. "Distribute" means to deliver a controlled substance, includ-
20 ing by means of the internet, other than by administering or dispensing.

21 ~~[11-]~~ 10. "Distributor" means a person who distributes a controlled
22 substance.

23 ~~[12-]~~ 11. "Diversion" means manufacture, possession, delivery or use
24 of a controlled substance by a person or in a manner not specifically
25 authorized by law.

26 ~~[13-]~~ 12. "Drug" means

27 (a) substances recognized as drugs in the official United States Phar-
28 macopoeia, official Homeopathic Pharmacopoeia of the United States, or
29 official National Formulary, or any supplement to any of them;

30 (b) substances intended for use in the diagnosis, cure, mitigation,
31 treatment, or prevention of disease in man or animals; and

32 (c) substances (other than food) intended to affect the structure or a
33 function of the body of man or animal. It does not include devices or
34 their components, parts, or accessories.

35 ~~[14-]~~ 13. "Federal agency" means the Drug Enforcement Administration,
36 United States Department of Justice, or its successor agency.

37 ~~[15-]~~ 14. "Federal controlled substances act" means the Comprehensive
38 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
39 any act or acts amendatory or supplemental thereto or regulations
40 promulgated thereunder.

41 ~~[16-]~~ 15. "Federal registration number" means such number assigned by
42 the Federal agency to any person authorized to manufacture, distribute,
43 sell, dispense or administer controlled substances.

44 ~~[17-]~~ 16. "Habitual user" means any person who is, or by reason of
45 repeated use of any controlled substance for non-legitimate or unlawful
46 use is in danger of becoming, dependent upon such substance.

47 ~~[18-]~~ 17. "Institutional dispenser" means a hospital, veterinary
48 hospital, clinic, dispensary, maternity home, nursing home, mental
49 hospital or similar facility approved and certified by the department as
50 authorized to obtain controlled substances by distribution and to
51 dispense and administer such substances pursuant to the order of a prac-
52 titioner.

53 ~~[19-]~~ 18. "License" means a written authorization issued by the
54 department or the New York state department of education permitting
55 persons to engage in a specified activity with respect to controlled
56 substances.

1 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
2 gation, compounding, cultivation, conversion or processing of a
3 controlled substance, either directly or indirectly or by extraction
4 from substances of natural origin, or independently by means of chemical
5 synthesis, or by a combination of extraction and chemical synthesis, and
6 includes any packaging or repackaging of the substance or labeling or
7 relabeling of its container, except that this term does not include the
8 preparation, compounding, packaging or labeling of a controlled
9 substance:

10 (a) by a practitioner as an incident to his administering or dispens-
11 ing of a controlled substance in the course of his professional prac-
12 tice; or

13 (b) by a practitioner, or by his authorized agent under his super-
14 vision, for the purpose of, or as an incident to, research, teaching, or
15 chemical analysis and not for sale; or

16 (c) by a pharmacist as an incident to his dispensing of a controlled
17 substance in the course of his professional practice.

18 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,~~
19 ~~whether growing or not, the seeds thereof, the resin extracted from any~~
20 ~~part of the plant, and every compound, manufacture, salt, derivative,~~
21 ~~mixture, or preparation of the plant, its seeds or resin. The term~~
22 ~~"marihuana" shall not include:~~

23 ~~(a) the mature stalks of the plant, fiber produced from the stalks,~~
24 ~~oil or cake made from the seeds of the plant, any other compound, manu-~~
25 ~~facture, salt, derivative, mixture, or preparation of the mature stalks~~
26 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~
27 ~~sterilized seed of the plant which is incapable of germination,~~

28 ~~(b) hemp, as defined in subdivision one of section five hundred five~~
29 ~~of the agriculture and markets law;~~

30 ~~(c) cannabinoid hemp as defined in subdivision two of section thirty-~~
31 ~~three hundred ninety-eight of this chapter, or~~

32 ~~(d) hemp extract as defined in subdivision five of section thirty-~~
33 ~~three hundred ninety-eight of this chapter.~~

34 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
35 directly or indirectly by extraction from substances of vegetable
36 origin, or independently by means of chemical synthesis, or by a combi-
37 nation of extraction and chemical synthesis:

38 (a) opium and opiate, and any salt, compound, derivative, or prepara-
39 tion of opium or opiate;

40 (b) any salt, compound, isomer, derivative, or preparation thereof
41 which is chemically equivalent or identical with any of the substances
42 referred to in [~~subdivision~~] paragraph (a) of this subdivision, but not
43 including the isoquinoline alkaloids of opium;

44 (c) opium poppy and poppy straw.

45 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
46 addiction-sustaining liability similar to morphine or being capable of
47 conversion into a drug having addiction-forming or addiction-sustaining
48 liability. It does not include, unless specifically designated as
49 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~
50 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
51 its salts (dextromethorphan). It does include its racemic and levorota-
52 tory forms.

53 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*
54 *somniferum* L., except its seeds.

1 [25+] 23. "Person" means individual, institution, corporation, govern-
2 ment or governmental subdivision or agency, business trust, estate,
3 trust, partnership or association, or any other legal entity.

4 [26+] 24. "Pharmacist" means any person licensed by the state depart-
5 ment of education to practice pharmacy.

6 [27+] 25. "Pharmacy" means any place registered as such by the New
7 York state board of pharmacy and registered with the Federal agency
8 pursuant to the federal controlled substances act.

9 [28+] 26. "Poppy straw" means all parts, except the seeds, of the
10 opium poppy, after mowing.

11 [29+] 27. "Practitioner" means:

12 A physician, dentist, podiatrist, veterinarian, scientific investi-
13 gator, or other person licensed, or otherwise permitted to dispense,
14 administer or conduct research with respect to a controlled substance in
15 the course of a licensed professional practice or research licensed
16 pursuant to this article. Such person shall be deemed a "practitioner"
17 only as to such substances, or conduct relating to such substances, as
18 is permitted by his license, permit or otherwise permitted by law.

19 [30+] 28. "Prescribe" means a direction or authorization, by
20 prescription, permitting an ultimate user lawfully to obtain controlled
21 substances from any person authorized by law to dispense such
22 substances.

23 [31+] 29. "Prescription" shall mean an official New York state
24 prescription, an electronic prescription, an oral prescription[7] or
25 out-of-state prescription[7, or any one].

26 [32+] 30. "Sell" means to sell, exchange, give or dispose of to anoth-
27 er, or offer or agree to do the same.

28 [33+] 31. "Ultimate user" means a person who lawfully obtains and
29 possesses a controlled substance for his own use or the use by a member
30 of his household or for an animal owned by him or in his custody. It
31 shall also mean and include a person designated, by a practitioner on a
32 prescription, to obtain such substance on behalf of the patient for whom
33 such substance is intended.

34 [34+] 32. "Internet" means collectively computer and telecommuni-
35 cations facilities which comprise the worldwide network of networks that
36 employ a set of industry standards and protocols, or any predecessor or
37 successor protocol to such protocol, to exchange information of all
38 kinds. "Internet," as used in this article, also includes other
39 networks, whether private or public, used to transmit information by
40 electronic means.

41 [35+] 33. "By means of the internet" means any sale, delivery,
42 distribution, or dispensing of a controlled substance that uses the
43 internet, is initiated by use of the internet or causes the internet to
44 be used.

45 [36+] 34. "Online dispenser" means a practitioner, pharmacy, or person
46 in the United States that sells, delivers or dispenses, or offers to
47 sell, deliver, or dispense, a controlled substance by means of the
48 internet.

49 [37+] 35. "Electronic prescription" means a prescription issued with
50 an electronic signature and transmitted by electronic means in accord-
51 ance with regulations of the commissioner and the commissioner of educa-
52 tion and consistent with federal requirements. A prescription generated
53 on an electronic system that is printed out or transmitted via facsimile
54 is not considered an electronic prescription and must be manually
55 signed.

1 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
2 trical, digital, magnetic, wireless, optical, electromagnetic or similar
3 capabilities. "Electronic" shall not include facsimile.

4 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
5 created, generated, transmitted, communicated, received or stored by
6 means of electronic equipment and includes the preservation, retrieval,
7 use and disposition in accordance with regulations of the commissioner
8 and the commissioner of education and in compliance with federal law and
9 regulations.

10 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
11 process, attached to or logically associated with an electronic record
12 and executed or adopted by a person with the intent to sign the record,
13 in accordance with regulations of the commissioner and the commissioner
14 of education.

15 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
16 means the prescription monitoring program registry established pursuant
17 to section thirty-three hundred forty-three-a of this article.

18 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
19 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
20 drug substance to create a drug with respect to an outsourcing facility
21 under section 503B of the federal Food, Drug and Cosmetic Act and
22 further defined in this section.

23 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

24 (a) is engaged in the compounding of sterile drugs as defined in
25 section sixty-eight hundred two of the education law;

26 (b) is currently registered as an outsourcing facility pursuant to
27 article one hundred thirty-seven of the education law; and

28 (c) complies with all applicable requirements of federal and state
29 law, including the Federal Food, Drug and Cosmetic Act.

30 Notwithstanding any other provision of law to the contrary, when an
31 outsourcing facility distributes or dispenses any drug to any person
32 pursuant to a prescription, such outsourcing facility shall be deemed to
33 be providing pharmacy services and shall be subject to all laws, rules
34 and regulations governing pharmacies and pharmacy services.

35 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
36 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
37 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
38 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
39 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
40 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
41 laws of 2006, are amended to read as follows:

42 (13) ~~[Marihuana-]~~

43 ~~(14)~~ Mescaline.

44 ~~(15)~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
45 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

46 ~~(16)~~ (15) Peyote. Meaning all parts of the plant presently classi-
47 fied botanically as *Lophophora williamsii* Lemaire, whether growing or
48 not, the seeds thereof, any extract from any part of such plant, and
49 every compound, manufacture, salts, derivative, mixture, or preparation
50 of such plant, its seeds or extracts.

51 ~~(17)~~ (16) N-ethyl-3-piperidyl benzilate.

52 ~~(18)~~ (17) N-methyl-3-piperidyl benzilate.

53 ~~(19)~~ (18) Psilocybin.

54 ~~(20)~~ (19) Psilocyn.

55 ~~(21)~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
56 derived from the cannabis plant that are equivalents of the substances

1 contained in the plant, or in the resinous extractives of cannabis, sp.
2 and/or synthetic substances, derivatives, and their isomers with similar
3 chemical structure and pharmacological activity such as the following:

4 ~~[\]~~ delta 1 cis or trans tetrahydrocannabinol, and their optical
5 isomers

6 ~~[\]~~ delta 6 cis or trans tetrahydrocannabinol, and their optical
7 isomers

8 ~~[\]~~ delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
9 isomers (since nomenclature of these substances is not internationally
10 standardized, compounds of these structures, regardless of numerical
11 designation of atomic positions covered).

12 ~~(22)~~ (21) Ethylamine analog of phencyclidine. Some trade or other
13 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
14 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

15 ~~(23)~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other
16 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

17 ~~(24)~~ (23) Thiophene analog of phencyclidine. Some trade or other
18 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
19 phencyclidine, TPCP, TCP.

20 ~~(25)~~ (24) 3,4-methylenedioxyamphetamine (MDMA).

21 ~~(26)~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
22 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
23 MDE, MDEA.

24 ~~(27)~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
25 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
26 N-hydroxy MDA.

27 ~~(28)~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
28 names: TCPY.

29 ~~(29)~~ (28) Alpha-ethyltryptamine. Some trade or other names:
30 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
31 3-(2-aminobutyl) indole; Alpha-ET or AET.

32 ~~(30)~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
33 names: DOET.

34 ~~(31)~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
35 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
36 DOB; 2C-B, Nexus.

37 ~~(32)~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
38 optical isomers, salts and salts of isomers.

39 § 5. Subdivision 8 of section 1399-n of the public health law, as
40 amended by chapter 131 of the laws of 2019, is amended to read as
41 follows:

42 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
43 any other matter or substance which contains tobacco or [~~marihuana~~]
44 cannabis as defined in section [~~thirty-three hundred two of this~~
45 ~~chapter~~] 222.00 of the penal law.

46 § 5-a. Section 1399-q of the public health law, as amended by chapter
47 335 of the laws of 2017, is amended to read as follows:

48 § 1399-q. Smoking and vaping restrictions inapplicable. 1. This
49 article shall not apply to:

50 ~~1-~~ (a) Private homes~~;~~ and private residences [~~and private~~
51 ~~automobiles~~];

52 ~~2-~~ (b) Private automobiles;

53 (c) A hotel or motel room rented to one or more guests;

54 ~~3-~~ (d) Retail tobacco businesses;

55 ~~4-~~ (e) Membership associations; provided, however, that smoking and
56 vaping shall only be allowed in membership associations in which all of

1 the duties with respect to the operation of such association, including,
2 but not limited to, the preparation of food and beverages, the service
3 of food and beverages, reception and secretarial work, and the security
4 services of the membership association are performed by members of such
5 membership association who do not receive compensation of any kind from
6 the membership association or any other entity for the performance of
7 such duties;

8 ~~[5-]~~ (f) Cigar bars that, in the calendar year ending December thir-
9 ty-first, two thousand two, generated ten percent or more of its total
10 annual gross income from the on-site sale of tobacco products and the
11 rental of on-site humidors, not including any sales from vending
12 machines, and is registered with the appropriate enforcement officer, as
13 defined in subdivision one of section thirteen hundred ninety-nine-t of
14 this article. Such registration shall remain in effect for one year and
15 shall be renewable only if: (a) in the preceding calendar year, the
16 cigar bar generated ten percent or more of its total annual gross income
17 from the on-site sale of tobacco products and the rental of on-site
18 humidors, and (b) the cigar bar has not expanded its size or changed its
19 location from its size or location since December thirty-first, two
20 thousand two;

21 ~~[6-]~~ (g) Outdoor dining areas of food service establishments with no
22 roof or other ceiling enclosure; provided, however, that smoking and
23 vaping may be permitted in a contiguous area designated for smoking and
24 vaping so long as such area: (a) constitutes no more than twenty-five
25 percent of the outdoor seating capacity of such food service establish-
26 ment, (b) is at least three feet away from the outdoor area of such food
27 service establishment not designated for smoking and vaping, and (c) is
28 clearly designated with written signage as a smoking and vaping area;

29 ~~[7-]~~ (h) Enclosed rooms in food service establishments, bars, catering
30 halls, convention halls, hotel and motel conference rooms, and other
31 such similar facilities during the time such enclosed areas or rooms are
32 being used exclusively for functions where the public is invited for the
33 primary purpose of promoting and sampling tobacco products or electronic
34 cigarettes, and the service of food and drink is incidental to such
35 purpose, provided that the sponsor or organizer gives notice in any
36 promotional material or advertisements that smoking and vaping will not
37 be restricted, and prominently posts notice at the entrance of the
38 facility and has provided notice of such function to the appropriate
39 enforcement officer, as defined in subdivision one of section thirteen
40 hundred ninety-nine-t of this article, at least two weeks prior to such
41 function. The enforcement officer shall keep a record of all tobacco
42 sampling events, and such record shall be made available for public
43 inspection. No such facility shall permit smoking and vaping under this
44 subdivision for more than two days in any calendar year; ~~and~~

45 ~~8-]~~ (i) Retail electronic cigarette stores, provided however, that
46 such stores may only permit the use of electronic cigarettes~~-]~~; and

47 (j) Adult-use on-site consumption premises authorized pursuant to
48 article four of the cannabis law, provided however, that such locations
49 may only permit the smoking or vaping of cannabis.

50 2. The restrictions of this article on the smoking or vaping of canna-
51 bis shall continue to apply to those locations identified in paragraphs
52 (b), (d), (f), (g), (h) and (i) of subdivision one of this section.

53 § 6. Title 5-A of article 33 of the public health law is REPEALED.

54 § 6-a. Article 33-B of the public health law is REPEALED.

55 § 6-b. The commissioner of health and the cannabis control board shall
56 work in conjunction to expeditiously transfer the oversight of the

1 medical use of cannabis to ensure continuity of care, and the responsi-
2 bility for regulation of cannabinoid hemp and hemp extract, from the
3 department of health to the office of cannabis management. For the
4 purposes of this section continuity of care shall include, but not be
5 limited to, a certified patient's ability to engage in the lawful
6 medical use of cannabis, and a registered organization's ability to
7 conduct its lawful operations.

8 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
9 (a) and (b) of subdivision 11 of section 1311 of the civil practice law
10 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added
11 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivi-
12 sion 11 as amended by section 47 of part A1 of chapter 56 of the laws
13 of 2010, are amended to read as follows:

14 (d) In a forfeiture action commenced by a claiming authority against a
15 defendant, the following rebuttable presumption shall apply: all curren-
16 cy or negotiable instruments payable to the bearer shall be presumed to
17 be the proceeds of a pre-conviction forfeiture crime when such currency
18 or negotiable instruments are (i) found in close proximity to a
19 controlled substance unlawfully possessed by the defendant in an amount
20 sufficient to constitute a violation of section 220.18 or 220.21 of the
21 penal law, or (ii) found in close proximity to any quantity of a
22 controlled substance [~~or marijuana~~] unlawfully possessed by such defend-
23 ant in a room, other than a public place, under circumstances evincing
24 an intent to unlawfully mix, compound, distribute, package or otherwise
25 prepare for sale such controlled substance [~~or marijuana~~].

26 3-a. Conviction of a person in a criminal action upon an accusatory
27 instrument which includes one or more of the felonies specified in
28 subdivision four-b of section thirteen hundred ten of this article, of
29 any felony other than such felonies, shall not preclude a defendant, in
30 any subsequent proceeding under this article where that conviction is at
31 issue, from adducing evidence that the conduct underlying the conviction
32 would not establish the elements of any of the felonies specified in
33 such subdivision other than the one to which the criminal defendant pled
34 guilty. If the defendant does adduce such evidence, the burden shall be
35 upon the claiming authority to prove, by clear and convincing evidence,
36 that the conduct underlying the criminal conviction would establish the
37 elements of the felony specified in such subdivision. Nothing contained
38 in this subdivision shall affect the validity of a settlement of any
39 forfeiture action negotiated between the claiming authority and a crimi-
40 nal defendant contemporaneously with the taking of a plea of guilty in a
41 criminal action to any felony defined in article two hundred twenty [~~or~~
42 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
43 commit the same.

44 (a) Any stipulation or settlement agreement between the parties to a
45 forfeiture action shall be filed with the clerk of the court in which
46 the forfeiture action is pending. No stipulation or settlement agreement
47 shall be accepted for filing unless it is accompanied by an affidavit
48 from the claiming authority that written notice of the stipulation or
49 settlement agreement, including the terms of such, has been given to the
50 office of victim services, the state division of criminal justice
51 services [~~, and in the case of a forfeiture based on a felony defined in~~
52 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~
53 ~~to the state division of substance abuse services~~].

54 (b) No judgment or order of forfeiture shall be accepted for filing
55 unless it is accompanied by an affidavit from the claiming authority
56 that written notice of judgment or order, including the terms of such,

1 has been given to the office of victim services, the state division of
2 criminal justice services [~~, and in the case of a forfeiture based on a~~
3 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~
4 ~~of the penal law, to the state division of substance abuse services~~].

5 § 8. Subdivision 1 of section 3397-b of the public health law, as
6 added by chapter 810 of the laws of 1980, is amended to read as follows:

7 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in
8 [~~section thirty-three hundred two of this chapter~~] section 222.00 of the
9 penal law and shall also include tetrahydrocannabinols or a chemical
10 derivative of tetrahydrocannabinol.

11 § 9. Section 114-a of the vehicle and traffic law, as added by chapter
12 163 of the laws of 1973, is amended to read as follows:

13 § 114-a. Drug. The term "drug" when used in this chapter, means and
14 includes any substance listed in section thirty-three hundred six of the
15 public health law and cannabis and concentrated cannabis as defined in
16 section 222.00 of the penal law.

17 § 9-a. Subdivision 1 of section 1192 of the vehicle and traffic law,
18 as added by chapter 47 of the laws of 1988, is amended to read as
19 follows:

20 1. Driving while ability impaired. a. No person shall operate a motor
21 vehicle while the person's ability to operate such motor vehicle is
22 impaired by the consumption of alcohol.

23 b. No person shall operate a motor vehicle while the person's ability
24 to operate such motor vehicle is impaired by the use of cannabis or
25 concentrated cannabis as defined in section 222.00 of the penal law.

26 § 9-b. Paragraph (a) of subdivision 2 of section 49-a of the naviga-
27 tion law, as amended by chapter 239 of the laws of 2016, is amended to
28 read as follows:

29 (a) (1) No person shall operate a vessel upon the waters of the state
30 while his or her ability to operate such vessel is impaired by the
31 consumption of alcohol. (2) No person shall operate a vessel upon the
32 waters of the state while his or her ability to operate such vessel is
33 impaired by the use of cannabis or concentrated cannabis as defined in
34 section 222.00 of the penal law.

35 (a-1) (1) A violation of paragraph (a) of this subdivision shall be an
36 offense and shall be punishable by a fine of not less than three hundred
37 dollars nor more than five hundred dollars, or by imprisonment in a
38 penitentiary or county jail for not more than fifteen days, or by both
39 such fine and imprisonment. (2) A person who operates a vessel in
40 violation of paragraph (a) of this subdivision after being convicted of
41 a violation of any subdivision of this section within the preceding five
42 years shall be punished by a fine of not less than five hundred dollars
43 nor more than seven hundred fifty dollars, or by imprisonment of not
44 more than thirty days in a penitentiary or county jail or by both such
45 fine and imprisonment. (3) A person who operates a vessel in violation
46 of paragraph (a) of this subdivision after being convicted two or more
47 times of a violation of any subdivision of this section within the
48 preceding ten years shall be guilty of a misdemeanor, and shall be
49 punished by a fine of not less than seven hundred fifty dollars nor more
50 than fifteen hundred dollars, or by imprisonment of not more than one
51 hundred eighty days in a penitentiary or county jail or by both such
52 fine and imprisonment.

53 § 9-c. Subdivision 5-a of section 49-a of the navigation law, as added
54 by chapter 239 of the laws of 2016, is amended to read as follows:

55 5-a. Sentencing; previous convictions. When sentencing a person for a
56 violation of paragraph (b), (c), (d) or (e) of subdivision two of this

1 section pursuant to subparagraph two of paragraph (f) of subdivision two
2 of this section, the court shall consider any prior convictions the
3 person may have for a violation of subdivision two, two-a, three, four,
4 or four-a of section eleven hundred ninety-two of the vehicle and traf-
5 fic law within the preceding ten years. When sentencing a person for a
6 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
7 section pursuant to subparagraph three of paragraph (f) of subdivision
8 two of this section, the court shall consider any prior convictions the
9 person may have for a violation of subdivision two, two-a, three, four,
10 or four-a of section eleven hundred ninety-two of the vehicle and traf-
11 fic law within the preceding ten years. When sentencing a person for a
12 violation of subparagraph two of paragraph [~~(a)~~] (a-1) of subdivision
13 two of this section, the court shall consider any prior convictions the
14 person may have for a violation of any subdivision of section eleven
15 hundred ninety-two of the vehicle and traffic law within the preceding
16 five years. When sentencing a person for a violation of subparagraph
17 three of paragraph [~~(a)~~] (a-1) of subdivision two of this section, the
18 court shall consider any prior convictions the person may have for a
19 violation of any subdivision of section eleven hundred ninety-two of the
20 vehicle and traffic law within the preceding ten years.

21 § 9-d. Paragraph (a) of subdivision 1 of section 25.24 of the parks,
22 recreation and historic preservation law, as amended by chapter 311 of
23 the laws of 2007, is amended to read as follows:

24 (a) (1) No person shall operate a snowmobile upon a street, highway,
25 public trails, lands, bodies of water, or private property of another
26 while his or her ability to operate such snowmobile is impaired by the
27 consumption of alcohol. (2) No person shall operate a snowmobile upon a
28 street, highway, public trails, lands, bodies of water, or private prop-
29 erty of another while his or her ability to operate such snowmobile is
30 impaired by the use of cannabis or concentrated cannabis as defined in
31 section 222.00 of the penal law. (3) A violation of this subdivision
32 shall be an offense and shall be punishable by a fine of not less than
33 two hundred fifty dollars nor more than three hundred fifty dollars, or
34 by imprisonment in a penitentiary or county jail for not more than
35 fifteen days, or by both such fine and imprisonment. A person who oper-
36 ates a snowmobile in violation of this subdivision after being convicted
37 of a violation of any subdivision of this section within the preceding
38 five years shall be punished by a fine of not less than five hundred
39 dollars nor more than fifteen hundred dollars, or by imprisonment of not
40 more than thirty days in a penitentiary or county jail or by both such
41 fine and imprisonment.

42 § 10. Subdivision 9 of section 220.00 of the penal law, as amended by
43 chapter 664 of the laws of 1985, is amended to read as follows:

44 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
45 ~~I-(d)~~] paragraphs (5), [(18), (19), (20), (21) and (22)] (17), (18),
46 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
47 three hundred six of the public health law.

48 § 10-a. Subdivision 5 of section 220.00 of the penal law, as amended
49 by chapter 537 of the laws of 1998, is amended to read as follows:

50 5. "Controlled substance" means any substance listed in schedule I,
51 II, III, IV or V of section thirty-three hundred six of the public
52 health law [~~other than marijuana, but including concentrated cannabis as~~
53 ~~defined in paragraph (a) of subdivision four of section thirty-three~~
54 ~~hundred two of such law~~].

55 § 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

56 § 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

1 § 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.
 2 § 14. Subdivision 6 of section 220.00 of the penal law is REPEALED.
 3 § 15. Article 221 of the penal law is REPEALED.
 4 § 16. The penal law is amended by adding a new article 222 to read as
 5 follows:

ARTICLE 222

CANNABIS

Section 222.00 Cannabis; definitions.

222.05 Personal use of cannabis.

222.10 Restrictions on cannabis use.

222.15 Personal cultivation of cannabis.

222.20 Licensing of cannabis production and distribution;
defense.

222.25 Unlawful possession of cannabis.

222.30 Criminal possession of cannabis in the third degree.

222.35 Criminal possession of cannabis in the second degree.

222.40 Criminal possession of cannabis in the first degree.

222.45 Unlawful sale of cannabis.

222.50 Criminal sale of cannabis in the third degree.

222.55 Criminal sale of cannabis in the second degree.

222.60 Criminal sale of cannabis in the first degree.

222.65 Aggravated criminal sale of cannabis.

§ 222.00 Cannabis; definitions.

1. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined in section three of the cannabis law.

2. "Concentrated cannabis" means:

(a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or

(b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system.

3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article.

4. For the purposes of this article, "smoking" shall have the same meaning as that term is defined in section three of the cannabis law.

§ 222.05 Personal use of cannabis.

Notwithstanding any other provision of law to the contrary:

1. The following acts are lawful for persons twenty-one years of age or older: (a) possessing, displaying, purchasing, obtaining, or transporting up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis;

1 (b) transferring, without compensation, to a person twenty-one years
2 of age or older, up to three ounces of cannabis and up to twenty-four
3 grams of concentrated cannabis;

4 (c) using, smoking, ingesting, or consuming cannabis or concentrated
5 cannabis unless otherwise prohibited by state law;

6 (d) possessing, using, displaying, purchasing, obtaining, manufactur-
7 ing, transporting or giving to any person twenty-one years of age or
8 older cannabis paraphernalia or concentrated cannabis paraphernalia;

9 (e) planting, cultivating, harvesting, drying, processing or possess-
10 ing cultivated cannabis in accordance with section 222.15 of this arti-
11 cle; and

12 (f) assisting another person who is twenty-one years of age or older,
13 or allowing property to be used, in any of the acts described in para-
14 graphs (a) through (e) of this subdivision.

15 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concen-
16 trated cannabis paraphernalia involved in any way with conduct deemed
17 lawful by this section are not contraband nor subject to seizure or
18 forfeiture of assets under article four hundred eighty of this chapter,
19 section thirteen hundred eleven of the civil practice law and rules, or
20 other applicable law, and no conduct deemed lawful by this section shall
21 constitute the basis for approach, search, seizure, arrest or detention.

22 3. Except as provided in subdivision four of this section, none of the
23 following shall, individually or in combination with each other, consti-
24 tute reasonable suspicion of a crime or be used as evidence of probable
25 cause in any criminal proceeding against a defendant twenty-one years of
26 age or older:

27 (a) the odor of cannabis or of burnt cannabis;

28 (b) the possession of or the suspicion of possession of cannabis or
29 concentrated cannabis in the amounts authorized in this section;

30 (c) the possession of multiple containers of cannabis without evidence
31 of possession of more than three ounces of cannabis or twenty-four grams
32 of concentrated cannabis;

33 (d) the presence of cash or currency in proximity to cannabis or
34 concentrated cannabis; or

35 (d) the planting, cultivating, harvesting, drying, processing or
36 possessing cultivated cannabis in accordance with section 222.15 of this
37 article.

38 4. Subdivision three of this section shall not apply when a law
39 enforcement officer is investigating: (a) an alleged offense pursuant to
40 this article; or (b) whether a person is operating a motor vehicle,
41 vessel or snowmobile while impaired by cannabis or concentrated cannabis
42 as defined in section 222.00 of this article or drugs or the combined
43 influence of drugs or of alcohol and any drug or drugs in violation of
44 paragraph (b) of subdivision one, subdivision four or subdivision four-a
45 of section eleven hundred ninety-two of the vehicle and traffic law, or
46 subparagraph two of paragraph (a) or paragraph (e) of subdivision two of
47 section forty-nine-a of the navigation law, or subparagraph two of para-
48 graph (a) or paragraph (d) of subdivision one of section 25.24 of the
49 parks, recreation and historic preservation law.

50 § 222.10 Restrictions on cannabis use.

51 Unless otherwise authorized by law or regulation, no person shall:

52 1. smoke or vape cannabis in a location where smoking or vaping canna-
53 bis is prohibited pursuant to article thirteen-E of the public health
54 law; or

55 2. possess, smoke, vape or ingest cannabis or concentrated cannabis in
56 or upon the grounds of a school, as defined in subdivision ten of

1 section eleven hundred twenty-five of the education law or in or on a
2 school bus, as defined in section one hundred forty-two of the vehicle
3 and traffic law; provided, however, provisions of this subdivision shall
4 not apply to acts that are in compliance with article three of the
5 cannabis law.

6 Violations of restrictions on cannabis use are subject to a civil
7 penalty not exceeding twenty-five dollars or an amount of community
8 service not exceeding twenty hours.

9 § 222.15 Personal cultivation of cannabis.

10 1. Notwithstanding the provisions of section thirty-three hundred
11 eighty-two of the public health law, and unless otherwise authorized by
12 law or regulation, no person may:

13 (a) plant, cultivate, harvest, dry, process or possess more than six
14 mature cannabis plants at any one time; or

15 (b) plant, cultivate, harvest, dry, process or possess, within his or
16 her private residence, or on the grounds of his or her private resi-
17 dence, more than six mature cannabis plants at any one time; or

18 (c) being under the age of twenty-one, plant, cultivate, harvest, dry,
19 process or possess cannabis plants.

20 2. Any mature cannabis plant described in paragraph (a) or (b) of
21 subdivision one of this section, and any cannabis produced by any such
22 cannabis plant or plants in excess of three ounces, cultivated,
23 harvested, dried, processed or possessed pursuant to paragraph (a) or
24 (b) of subdivision one of this section shall, unless otherwise author-
25 ized by law or regulation, be stored except for incidental periods with-
26 in such person's private residence or storage space or on the grounds of
27 such person's private residence or storage space. Such person shall take
28 reasonable steps designed to assure that such cultivated cannabis is in
29 a secured place.

30 3. A county, town, city or village may enact and enforce regulations
31 to reasonably regulate the actions and conduct set forth in subdivision
32 one of this section; provided that:

33 (a) a violation of any such a regulation, as approved by such county,
34 town, city or village enacting the regulation, may constitute no more
35 than an infraction and may be punishable by no more than a discretionary
36 civil penalty of two hundred dollars or less; and

37 (b) no county, town, city or village may enact or enforce any such
38 regulation or regulations that may completely or essentially prohibit a
39 person from engaging in the action or conduct authorized by subdivision
40 one of this section.

41 A violation of subdivision one or two of this section may be subject
42 to a civil penalty of up to one hundred twenty-five dollars.

43 § 222.20 Licensing of cannabis production and distribution; defense.

44 In any prosecution for an offense involving cannabis under this arti-
45 cle or an authorized local law, it is a defense that the defendant was
46 engaged in such activity in compliance with the cannabis law.

47 § 222.25 Unlawful possession of cannabis.

48 A person is guilty of unlawful possession of cannabis when he or she
49 knowingly and unlawfully possesses cannabis and such cannabis weighs
50 more than three ounces or concentrated cannabis and such concentrated
51 cannabis weighs more than twenty-four grams.

52 Unlawful possession of cannabis is a violation punishable by a fine of
53 not more than one hundred twenty-five dollars.

54 § 222.30 Criminal possession of cannabis in the third degree.

55 A person is guilty of criminal possession of cannabis in the third
56 degree when he or she knowingly and unlawfully possesses:

1 1. cannabis and such cannabis weighs more than sixteen ounces; or
2 2. concentrated cannabis and such concentrated cannabis weighs more
3 than five ounces.

4 Criminal possession of cannabis in the third degree is a class A
5 misdemeanor.

6 § 222.35 Criminal possession of cannabis in the second degree.

7 A person is guilty of criminal possession of cannabis in the second
8 degree when he or she knowingly and unlawfully possesses:

9 1. cannabis and such cannabis weighs more than five pounds; or
10 2. concentrated cannabis and such concentrated cannabis weighs more
11 than two pounds.

12 Criminal possession of cannabis in the second degree is a class E
13 felony.

14 § 222.40 Criminal possession of cannabis in the first degree.

15 A person is guilty of criminal possession of cannabis in the first
16 degree when he or she knowingly and unlawfully possesses:

17 1. cannabis and such cannabis weighs more than ten pounds; or
18 2. concentrated cannabis and such concentrated cannabis weighs more
19 than four pounds.

20 Criminal possession of cannabis in the first degree is a class D felo-
21 ny.

22 § 222.45 Unlawful sale of cannabis.

23 A person is guilty of unlawful sale of cannabis when he or she know-
24 ingly and unlawfully sells cannabis or concentrated cannabis.

25 Unlawful sale of cannabis is a violation punishable by a fine of not
26 more than two hundred fifty dollars.

27 § 222.50 Criminal sale of cannabis in the third degree.

28 A person is guilty of criminal sale of cannabis in the third degree
29 when:

30 1. he or she knowingly and unlawfully sells more than three ounces of
31 cannabis or more than twenty-four grams of concentrated cannabis; or
32 2. being twenty-one years of age or older, he or she knowingly and
33 unlawfully sells or gives, or causes to be given or sold, cannabis or
34 concentrated cannabis to a person less than twenty-one years of age;
35 except that in any prosecution under this subdivision, it is a defense
36 that the defendant was less than three years older than the person under
37 the age of twenty-one at the time of the offense. This subdivision shall
38 not apply to designated caregivers, practitioners, employees of a regis-
39 tered organization or employees of a designated caregiver facility
40 acting in compliance with article three of the cannabis law.

41 Criminal sale of cannabis in the third degree is a class A misdemea-
42 nor.

43 § 222.55 Criminal sale of cannabis in the second degree.

44 A person is guilty of criminal sale of cannabis in the second degree
45 when:

46 1. he or she knowingly and unlawfully sells more than sixteen ounces
47 of cannabis or more than five ounces of concentrated cannabis; or
48 2. being twenty-one years of age or older, he or she knowingly and
49 unlawfully sells or gives, or causes to be given or sold, more than
50 three ounces of cannabis or more than twenty-four grams of concentrated
51 cannabis to a person less than eighteen years of age. This subdivision
52 shall not apply to designated caregivers, practitioners, employees of a
53 registered organization or employees of a designated caregiver facility
54 acting in compliance with article three of the cannabis law.

55 Criminal sale of cannabis in the second degree is a class E felony.

56 § 222.60 Criminal sale of cannabis in the first degree.

1 A person is guilty of criminal sale of cannabis in the first degree
2 when he or she knowingly and unlawfully sells more than five pounds of
3 cannabis or more than two pounds of concentrated cannabis.

4 Criminal sale of cannabis in the first degree is a class D felony.
5 § 222.65 Aggravated criminal sale of cannabis.

6 A person is guilty of aggravated criminal sale of cannabis when he or
7 she knowingly and unlawfully sells cannabis or concentrated cannabis
8 weighing one hundred pounds or more.

9 Aggravated criminal sale of cannabis is a class C felony.

10 § 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal
11 procedure law, as amended by chapter 132 of the laws of 2019, is amended
12 to read as follows:

13 (k) (i) The conviction was for a violation of article two hundred
14 twenty or section 240.36 of the penal law prior to the effective date of
15 article two hundred twenty-one of the penal law, and the sole controlled
16 substance involved was marihuana and the conviction was only for a
17 misdemeanor and/or violation [~~or violations~~]; or

18 (ii) the conviction is for an offense defined in section 221.05 or
19 221.10 of the penal law prior to the effective date of [~~the~~] chapter one
20 hundred thirty-two of the laws of two thousand nineteen [~~that amended~~
21 ~~this paragraph~~]; or

22 (iii) the conviction is for an offense defined in [~~section~~] former
23 sections 221.05 [~~ex~~], 221.10, 221.15, 221.20, 221.35, or 221.40 of the
24 penal law; or

25 (iv) the conviction was for a violation of section 220.03 or 220.06 of
26 the penal law prior to the effective date of the chapter of the laws of
27 two thousand twenty-one that amended this paragraph, and the sole
28 controlled substance involved was concentrated cannabis; or

29 (v) the conviction is for an offense defined in sections 222.10,
30 222.15, 222.25 or 222.45 of the penal law.

31 No defendant shall be required or permitted to waive eligibility for
32 sealing or expungement pursuant to this section as part of a plea of
33 guilty, sentence or any agreement related to a conviction for a
34 violation of [~~section 221.05~~] sections 222.10, 222.15, 222.25 or
35 [~~section 221.10~~] 222.45 of the penal law and any such waiver shall be
36 deemed void and wholly unenforceable.

37 § 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal
38 procedure law, as added by chapter 132 of the laws of 2019, is amended
39 to read as follows:

40 (k) The judgment occurred prior to the effective date of the laws of
41 two thousand twenty-one that amended this paragraph and is a conviction
42 for an offense as defined in subparagraphs (i) [~~ex~~], (ii), (iii) or (iv)
43 of paragraph (k) of subdivision three of section 160.50 of this part, in
44 which case the court shall presume that a conviction by plea for the
45 aforementioned offenses was not knowing, voluntary and intelligent if it
46 has severe or ongoing consequences, including but not limited to poten-
47 tial or actual immigration consequences, and shall presume that a
48 conviction by verdict for the aforementioned offenses constitutes cruel
49 and unusual punishment under section five of article one of the state
50 constitution, based on those consequences. The people may rebut these
51 presumptions.

52 § 19. Intentionally omitted.

53 § 20. Intentionally omitted.

54 § 21. Intentionally omitted.

1 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,
2 as amended by chapter 360 of the laws of 1977, is amended to read as
3 follows:

4 1. Upon or after arraignment in a local criminal court upon an infor-
5 mation, a prosecutor's information or a misdemeanor complaint, where the
6 sole remaining count or counts charge a violation or violations of
7 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 220.10, 222.15,
8 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a
9 nuisance offense under section sixty-five-c of the alcoholic beverage
10 control law and before the entry of a plea of guilty thereto or
11 commencement of a trial thereof, the court, upon motion of a defendant,
12 may order that all proceedings be suspended and the action adjourned in
13 contemplation of dismissal, or upon a finding that adjournment would not
14 be necessary or appropriate and the setting forth in the record of the
15 reasons for such findings, may dismiss in furtherance of justice the
16 accusatory instrument; provided, however, that the court may not order
17 such adjournment in contemplation of dismissal or dismiss the accusatory
18 instrument if: (a) the defendant has previously been granted such
19 adjournment in contemplation of dismissal, or (b) the defendant has
20 previously been granted a dismissal under this section, or (c) the
21 defendant has previously been convicted of any offense involving
22 controlled substances, or (d) the defendant has previously been
23 convicted of a crime and the district attorney does not consent or (e)
24 the defendant has previously been adjudicated a youthful offender on the
25 basis of any act or acts involving controlled substances and the
26 district attorney does not consent. Notwithstanding the limitations set
27 forth in this subdivision, the court may order that all proceedings be
28 suspended and the action adjourned in contemplation of dismissal based
29 upon a finding of exceptional circumstances. For purposes of this subdi-
30 vision, exceptional circumstances exist when, regardless of the ultimate
31 disposition of the case, the entry of a plea of guilty is likely to
32 result in severe or ongoing consequences, including, but not limited to,
33 potential or actual immigration consequences.

34 § 23. Intentionally omitted.

35 § 24. The criminal procedure law is amended by adding a new section
36 440.46-a to read as follows:

37 § 440.46-a Motion for resentence; persons convicted of certain marihuana
38 offenses.

39 1. When a person is serving a sentence for a conviction in this state,
40 whether by trial verdict or guilty plea, under former article two
41 hundred twenty-one of the penal law, and such person's conduct as
42 alleged in the accusatory instrument and/or shown by the guilty plea or
43 trial verdict would not have been a crime under article two hundred
44 twenty-two of the penal law, had such article two hundred twenty-two
45 rather than former article two hundred twenty-one of the penal law been
46 in effect at the time of such conduct, then the chief administrative
47 judge of the state of New York shall, in accordance with this section,
48 automatically vacate, dismiss and expunge such conviction in accordance
49 with section 160.50 of this chapter, and the office of court adminis-
50 tration shall immediately notify the state division of criminal justice
51 services, state department of corrections and community supervision and
52 the appropriate local correctional facility which shall immediately
53 effectuate the appropriate relief. Such notification to the division of
54 criminal justice services shall also direct that such agency notify all
55 relevant police and law enforcement agencies of their duty to destroy
56 and/or mark records related to such case in accordance with section

1 160.50 of this chapter. Nothing in this section shall prevent a person
2 who believes his or her sentence is required by this section to be
3 vacated, dismissed and/or expunged from filing a petition with the court
4 to effectuate all appropriate relief.

5 2. (a) When a person is serving or has completed serving a sentence
6 for a conviction in this state, whether by trial verdict or guilty plea,
7 under former article two hundred twenty-one of the penal law, and such
8 person's conduct as alleged in the accusatory instrument and/or shown by
9 the guilty plea or trial verdict, or shown by other information: (i)
10 would not have been a crime under article two hundred twenty-two of the
11 penal law, had such article two hundred twenty-two rather than former
12 article two hundred twenty-one of the penal law been in effect at the
13 time of such conduct; or (ii) under such circumstances such person would
14 have been guilty of a lesser or potentially less onerous offense under
15 such article two hundred twenty-two than such former article two hundred
16 twenty-one of the penal law; then such person may petition the court of
17 conviction pursuant to this article for vacatur of such conviction.

18 (b) Upon receiving a served and filed motion under paragraph (a) of
19 this subdivision, the court shall presume the movant satisfies the
20 criteria in such paragraph (a) and shall grant the motion to vacate such
21 conviction unless the party opposing the motion proves, by clear and
22 convincing evidence, that the movant does not satisfy the criteria. If
23 the movant satisfies the criteria, the court shall grant the motion to
24 vacate the conviction: (i) if the conviction was by plea of guilty, on
25 grounds that such plea was not knowing, voluntary and intelligent owing
26 to ongoing consequences; and (ii) if the conviction was by verdict or
27 otherwise, on grounds that such conviction and sentence constitutes
28 cruel and unusual punishment under the state constitution owing to such
29 ongoing consequences; and may, if the petition meets the criteria in
30 subparagraph (i) of paragraph (a) of this subdivision, after affording
31 the parties an opportunity to be heard and present evidence, substitute,
32 unless it is not in the interests of justice to do so, a conviction for
33 an appropriate lesser offense under article two hundred twenty-two of
34 the penal law.

35 (c) In the event of any vacatur and/or substitution pursuant to this
36 subdivision, the office of court administration shall immediately notify
37 the state division of criminal justice services concerning such determi-
38 nation. Such notification to the division of criminal justice services
39 shall also direct that such agency notify all relevant police and law
40 enforcement agencies of their duty to destroy and/or mark records
41 related to such case in accordance with section 160.50 of this chapter
42 or, where conviction for a crime is substituted pursuant to this subdivi-
43 vision, update such agencies' records accordingly.

44 3. Under no circumstances may substitution under this section result
45 in the imposition of a term of imprisonment or sentencing term, obli-
46 gation or condition that is in any way either harsher than the original
47 sentence or harsher than the sentence authorized for any substituted
48 lesser offense.

49 4. (a) If the judge who originally sentenced the movant for such
50 offense is not reasonably available, then the presiding judge for such
51 court shall designate another judge authorized to act in the appropriate
52 jurisdiction to determine the petition or application.

53 (b) Unless requested by the movant, no hearing is necessary to grant
54 an application filed under subdivision two of this section.

55 (c) When a felony conviction is vacated pursuant to this section and a
56 lesser offense that is a misdemeanor or violation is substituted for

1 such conviction, such lesser offense shall be considered a misdemeanor
2 or violation, as the case may be, for all purposes. When a misdemeanor
3 conviction is vacated pursuant to this section and a lesser offense that
4 is a violation is substituted for such conviction, such lesser offense
5 shall be considered a violation for all purposes.

6 (d) Nothing in this section is intended to or shall diminish or abro-
7 gate any rights or remedies otherwise available to a defendant, peti-
8 tioner or applicant. Relief under this section is available notwith-
9 standing that the judgment was for a violation of former sections
10 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in
11 effect prior to the effective date of this paragraph and that the under-
12 lying action or proceeding has already been vacated, dismissed and
13 expunged.

14 (e) Nothing in this and related sections of law is intended to dimin-
15 ish or abrogate the finality of judgments in any case not falling within
16 the purview of this section.

17 (f) The provisions of this section shall be available, used and
18 applied in parallel fashion by the family court and the criminal courts
19 to juvenile delinquency adjudications, adolescent offender adjudications
20 and youthful offender adjudications.

21 (g) The chief administrator of the courts shall promulgate all neces-
22 sary rules and make available all necessary forms to enable the filing
23 of the petitions and applications provided in this section no later than
24 sixty days following the effective date of this section. All sentences
25 eligible for automatic vacatur, dismissal and expungement pursuant to
26 subdivision one of this section shall be identified and the required
27 entities notified within one year of the effective date of this section.

28 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
29 procedure law, as amended by chapter 37 of the laws of 2014, is amended
30 to read as follows:

31 (c) Criminal possession of a controlled substance in the seventh
32 degree as defined in section 220.03 of the penal law, criminal
33 possession of a controlled substance in the fifth degree as defined in
34 section 220.06 of the penal law, criminal possession of a controlled
35 substance in the fourth degree as defined in section 220.09 of the penal
36 law, criminal possession of a controlled substance in the third degree
37 as defined in section 220.16 of the penal law, criminal possession of a
38 controlled substance in the second degree as defined in section 220.18
39 of the penal law, criminal possession of a controlled substance in the
40 first degree as defined in section 220.21 of the penal law, criminal
41 sale of a controlled substance in the fifth degree as defined in section
42 220.31 of the penal law, criminal sale of a controlled substance in the
43 fourth degree as defined in section 220.34 of the penal law, criminal
44 sale of a controlled substance in the third degree as defined in section
45 220.39 of the penal law, criminal sale of a controlled substance in the
46 second degree as defined in section 220.41 of the penal law, criminal
47 sale of a controlled substance in the first degree as defined in section
48 220.43 of the penal law, criminally possessing a hypodermic instrument
49 as defined in section 220.45 of the penal law, criminal sale of a
50 prescription for a controlled substance or a controlled substance by a
51 practitioner or pharmacist as defined in section 220.65 of the penal
52 law, criminal possession of methamphetamine manufacturing material in
53 the second degree as defined in section 220.70 of the penal law, crimi-
54 nal possession of methamphetamine manufacturing material in the first
55 degree as defined in section 220.71 of the penal law, criminal
56 possession of precursors of methamphetamine as defined in section 220.72

1 of the penal law, unlawful manufacture of methamphetamine in the third
2 degree as defined in section 220.73 of the penal law, unlawful manufac-
3 ture of methamphetamine in the second degree as defined in section
4 220.74 of the penal law, unlawful manufacture of methamphetamine in the
5 first degree as defined in section 220.75 of the penal law, unlawful
6 disposal of methamphetamine laboratory material as defined in section
7 220.76 of the penal law, operating as a major trafficker as defined in
8 section 220.77 of the penal law, [~~criminal possession of marihuana in
9 the first degree as defined in section 221.30 of the penal law, criminal
10 sale of marihuana in the first degree as defined in section 221.55 of
11 the penal law,~~] promoting gambling in the second degree as defined in
12 section 225.05 of the penal law, promoting gambling in the first degree
13 as defined in section 225.10 of the penal law, possession of gambling
14 records in the second degree as defined in section 225.15 of the penal
15 law, possession of gambling records in the first degree as defined in
16 section 225.20 of the penal law, and possession of a gambling device as
17 defined in section 225.30 of the penal law;

18 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
19 9 of section 1310 of the civil practice law and rules, paragraphs (b)
20 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
21 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
22 are amended to read as follows:

23 (b) on three or more occasions, engaging in conduct constituting a
24 violation of any of the felonies defined in section 220.09, 220.16,
25 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[7] ~~or~~ 220.43 [~~or 221.55~~]
26 of the penal law, which violations do not constitute a single criminal
27 offense as defined in subdivision one of section 40.10 of the criminal
28 procedure law, or a single criminal transaction, as defined in paragraph
29 (a) of subdivision two of section 40.10 of the criminal procedure law,
30 and at least one of which resulted in a conviction of such offense, or
31 where the accusatory instrument charges one or more of such felonies,
32 conviction upon a plea of guilty to a felony for which such plea is
33 otherwise authorized by law; or

34 (c) a conviction of a person for a violation of section 220.09,
35 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-
36 nal defendant for a violation of section 221.30 of the penal law,~~] or
37 where the accusatory instrument charges any such felony, conviction upon
38 a plea of guilty to a felony for which the plea is otherwise authorized
39 by law, together with evidence which: (i) provides substantial indicia
40 that the defendant used the real property to engage in a continual,
41 ongoing course of conduct involving the unlawful mixing, compounding,
42 manufacturing, warehousing, or packaging of controlled substances [~~or
43 where the conviction is for a violation of section 221.30 of the penal
44 law, marijuana,~~] as part of an illegal trade or business for gain; and
45 (ii) establishes, where the conviction is for possession of a controlled
46 substance [~~or where the conviction is for a violation of section 221.30
47 of the penal law, marijuana~~], that such possession was with the intent
48 to sell it.

49 [~~6. "Pre-conviction forfeiture crime" means only a felony defined in
50 article two hundred twenty or section 221.30 or 221.55 of the penal
51 law.~~]

52 9. "Criminal defendant" means a person who has criminal liability for
53 a crime defined in [~~subdivisions~~] subdivision five [~~and six hereof~~] of
54 this section. For purposes of this article, a person has criminal
55 liability when [~~(a)~~] he has been convicted of a post-conviction forfei-
56 ture crime[~~, or (b) the claiming authority proves by clear and convinc-~~

~~ing evidence that such person has committed an act in violation of article two hundred twenty or section 221.30 or 221.55 of the penal law].~~

§ 27. Subdivision 13 of section 89-f of the general business law, as added by chapter 336 of the laws of 1992, is amended to read as follows:

13. "Serious offense" shall mean any felony involving the offenses enumerated in the closing paragraph of this subdivision; a criminal solicitation of or a conspiracy to commit or an attempt to commit or a criminal facilitation of a felony involving the offenses enumerated in the closing paragraph of this subdivision, which criminal solicitation, conspiracy, attempt or criminal facilitation itself constitutes a felony or any offense in any other jurisdiction which if committed in this state would constitute a felony; any offense in any other jurisdiction which if committed in this state would constitute a felony provided that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

Felonies involving: assault, aggravated assault and reckless endangerment pursuant to article one hundred twenty; vehicular manslaughter, manslaughter and murder pursuant to article one hundred twenty-five; sex offenses pursuant to article one hundred thirty; unlawful imprisonment, kidnapping or coercion pursuant to article one hundred thirty-five; criminal trespass and burglary pursuant to article one hundred forty; criminal mischief, criminal tampering and tampering with a consumer product pursuant to article one hundred forty-five; arson pursuant to article one hundred fifty; larceny and offenses involving theft pursuant to article one hundred fifty-five; offenses involving computers pursuant to article one hundred fifty-six; robbery pursuant to article one hundred sixty; criminal possession of stolen property pursuant to article one hundred sixty-five; forgery and related offenses pursuant to article one hundred seventy; involving false written statements pursuant to article one hundred seventy-five; commercial bribing and commercial bribe receiving pursuant to article one hundred eighty; criminal impersonation and scheme to defraud pursuant to article one hundred ninety; bribery involving public servants and related offenses pursuant to article two hundred; perjury and related offenses pursuant to article two hundred ten; tampering with a witness, intimidating a victim or witness and tampering with physical evidence pursuant to article two hundred fifteen; criminal possession of a controlled substance pursuant to sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a controlled substance pursuant to sections 220.31, 220.34, 220.39, 220.41, 220.43 and 220.44; criminal sale of [~~marijuana~~] cannabis pursuant to sections [~~221.45, 221.50 and 221.55~~] 222.55, 222.60 and 222.65; riot in the first degree, aggravated harassment in the first degree, criminal nuisance in the first degree and falsely reporting an incident in the second or first degree pursuant to article two hundred forty; and crimes against public safety pursuant to article two hundred sixty-five of the penal law.

1 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
2 business law is REPEALED.

3 § 29. Paragraph (h) of subdivision 2 of section 850 of the general
4 business law, as amended by chapter 812 of the laws of 1980, is amended
5 to read as follows:

6 (h) Objects, used or designed for the purpose of ingesting, inhaling,
7 or otherwise introducing [~~marihuana,~~] cocaine[~~, hashish, or hashish oil~~]
8 into the human body.

9 § 30. Subdivision 7 of section 995 of the executive law, as amended by
10 chapter 19 of the laws of 2012, is amended to read as follows:

11 7. "Designated offender" means a person convicted of any felony
12 defined in any chapter of the laws of the state or any misdemeanor
13 defined in the penal law [~~except that where the person is convicted~~
14 ~~under section 221.10 of the penal law, only a person convicted under~~
15 ~~subdivision two of such section, or a person convicted under subdivision~~
16 ~~one of such section who stands previously convicted of any crime as~~
17 ~~defined in subdivision six of section 10.00 of the penal law~~].

18 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
19 penal law, paragraph (b) as amended by section 31 of part AAA of chapter
20 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
21 laws of 1990, are amended to read as follows:

22 (b) three or more violations of any of the felonies defined in section
23 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
24 220.43[~~,~~] or 220.77[~~, or 221.55~~] of this chapter, which violations do
25 not constitute a single criminal offense as defined in subdivision one
26 of section 40.10 of the criminal procedure law, or a single criminal
27 transaction, as defined in paragraph (a) of subdivision two of section
28 40.10 of the criminal procedure law, and at least one of which resulted
29 in a conviction of such offense, or where the accusatory instrument
30 charges one or more of such felonies, conviction upon a plea of guilty
31 to a felony for which such plea is otherwise authorized by law; or

32 (c) a conviction of a person for a violation of section 220.09,
33 220.16, 220.34[~~,~~] or 220.39[~~, or 221.30~~] of this chapter, or where the
34 accusatory instrument charges any such felony, conviction upon a plea of
35 guilty to a felony for which the plea is otherwise authorized by law,
36 together with evidence which: (i) provides substantial indicia that the
37 defendant used the real property to engage in a continual, ongoing
38 course of conduct involving the unlawful mixing, compounding, manufac-
39 turing, warehousing, or packaging of controlled substances [~~or where the~~
40 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~
41 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-
42 lishes, where the conviction is for possession of a controlled substance
43 [~~or where the conviction is for a violation of section 221.30 of this~~
44 ~~chapter, marijuana~~], that such possession was with the intent to sell
45 it.

46 § 32. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
47 and traffic law, as amended by chapter 368 of the laws of 2015, is
48 amended to read as follows:

49 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
50 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
51 of this section that result in disqualification for a period of five
52 years shall include a conviction under sections 100.10, 105.13, 115.05,
53 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
54 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
55 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
56 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~] subdi-

1 vision two of section 222.50, subdivision two of section 222.55, 230.00,
 2 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06,
 3 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section
 4 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10,
 5 265.12, 265.35 of the penal law or an attempt to commit any of the afor-
 6 esaid offenses under section 110.00 of the penal law, or any similar
 7 offenses committed under a former section of the penal law, or any
 8 offenses committed under a former section of the penal law which would
 9 constitute violations of the aforesaid sections of the penal law, or any
 10 offenses committed outside this state which would constitute violations
 11 of the aforesaid sections of the penal law.

12 § 33. The opening paragraph of paragraph (a) of subdivision 2 of
 13 section 1194 of the vehicle and traffic law, as amended by chapter 196
 14 of the laws of 1996, is amended to read as follows:

15 When authorized. Any person who operates a motor vehicle in this state
 16 shall be deemed to have given consent to a chemical test of one or more
 17 of the following: breath, blood[~~r~~] or urine[~~r~~, ~~or saliva~~], for the
 18 purpose of determining the alcoholic and/or drug content, other than
 19 cannabis content including but not limited to tetrahydrocannabinol
 20 content, of the blood provided that such test is administered by or at
 21 the direction of a police officer with respect to a chemical test of
 22 breath, urine [~~or saliva~~] or, with respect to a chemical test of blood,
 23 at the direction of a police officer:

24 § 34. The article heading of article 20-B of the tax law, as added by
 25 chapter 90 of the laws of 2014, is amended to read as follows:

26 EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

27 § 35. Subdivision 1 of section 171-a of the tax law, as amended by
 28 section 3 of part XX of chapter 59 of the laws of 2019, is amended to
 29 read as follows:

30 1. All taxes, interest, penalties and fees collected or received by
 31 the commissioner or the commissioner's duly authorized agent under arti-
 32 cles nine (except section one hundred eighty-two-a thereof and except as
 33 otherwise provided in section two hundred five thereof), nine-A,
 34 twelve-A (except as otherwise provided in section two hundred eighty-
 35 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
 36 section three hundred twelve thereof), eighteen, nineteen, twenty
 37 (except as otherwise provided in section four hundred eighty-two there-
 38 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,
 39 twenty-six, twenty-eight (except as otherwise provided in section eleven
 40 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
 41 nine-B, thirty-one (except as otherwise provided in section fourteen
 42 hundred twenty-one thereof), thirty-three and thirty-three-A of this
 43 chapter shall be deposited daily in one account with such responsible
 44 banks, banking houses or trust companies as may be designated by the
 45 comptroller, to the credit of the comptroller. Such an account may be
 46 established in one or more of such depositories. Such deposits shall be
 47 kept separate and apart from all other money in the possession of the
 48 comptroller. The comptroller shall require adequate security from all
 49 such depositories. Of the total revenue collected or received under such
 50 articles of this chapter, the comptroller shall retain in the comp-
 51 troller's hands such amount as the commissioner may determine to be
 52 necessary for refunds or reimbursements under such articles of this
 53 chapter out of which amount the comptroller shall pay any refunds or
 54 reimbursements to which taxpayers shall be entitled under the provisions
 55 of such articles of this chapter. The commissioner and the comptroller
 56 shall maintain a system of accounts showing the amount of revenue

1 collected or received from each of the taxes imposed by such articles.
2 The comptroller, after reserving the amount to pay such refunds or
3 reimbursements, shall, on or before the tenth day of each month, pay
4 into the state treasury to the credit of the general fund all revenue
5 deposited under this section during the preceding calendar month and
6 remaining to the comptroller's credit on the last day of such preceding
7 month, (i) except that the comptroller shall pay to the state department
8 of social services that amount of overpayments of tax imposed by article
9 twenty-two of this chapter and the interest on such amount which is
10 certified to the comptroller by the commissioner as the amount to be
11 credited against past-due support pursuant to subdivision six of section
12 one hundred seventy-one-c of this article, (ii) and except that the
13 comptroller shall pay to the New York state higher education services
14 corporation and the state university of New York or the city university
15 of New York respectively that amount of overpayments of tax imposed by
16 article twenty-two of this chapter and the interest on such amount which
17 is certified to the comptroller by the commissioner as the amount to be
18 credited against the amount of defaults in repayment of guaranteed
19 student loans and state university loans or city university loans pursu-
20 ant to subdivision five of section one hundred seventy-one-d and subdivi-
21 sion six of section one hundred seventy-one-e of this article, (iii)
22 and except further that, notwithstanding any law, the comptroller shall
23 credit to the revenue arrearage account, pursuant to section
24 ninety-one-a of the state finance law, that amount of overpayment of tax
25 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
26 or thirty-three of this chapter, and any interest thereon, which is
27 certified to the comptroller by the commissioner as the amount to be
28 credited against a past-due legally enforceable debt owed to a state
29 agency pursuant to paragraph (a) of subdivision six of section one
30 hundred seventy-one-f of this article, provided, however, he shall cred-
31 it to the special offset fiduciary account, pursuant to section ninety-
32 one-c of the state finance law, any such amount creditable as a liabil-
33 ity as set forth in paragraph (b) of subdivision six of section one
34 hundred seventy-one-f of this article, (iv) and except further that the
35 comptroller shall pay to the city of New York that amount of overpayment
36 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
37 thirty-B or thirty-three of this chapter and any interest thereon that
38 is certified to the comptroller by the commissioner as the amount to be
39 credited against city of New York tax warrant judgment debt pursuant to
40 section one hundred seventy-one-l of this article, (v) and except
41 further that the comptroller shall pay to a non-obligated spouse that
42 amount of overpayment of tax imposed by article twenty-two of this chap-
43 ter and the interest on such amount which has been credited pursuant to
44 section one hundred seventy-one-c, one hundred seventy-one-d, one
45 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
46 ty-one-l of this article and which is certified to the comptroller by
47 the commissioner as the amount due such non-obligated spouse pursuant to
48 paragraph six of subsection (b) of section six hundred fifty-one of this
49 chapter; and (vi) the comptroller shall deduct a like amount which the
50 comptroller shall pay into the treasury to the credit of the general
51 fund from amounts subsequently payable to the department of social
52 services, the state university of New York, the city university of New
53 York, or the higher education services corporation, or the revenue
54 arrearage account or special offset fiduciary account pursuant to
55 section ninety-one-a or ninety-one-c of the state finance law, as the
56 case may be, whichever had been credited the amount originally withheld

1 from such overpayment, and (vii) with respect to amounts originally
2 withheld from such overpayment pursuant to section one hundred seventy-
3 one-1 of this article and paid to the city of New York, the comptroller
4 shall collect a like amount from the city of New York.

5 § 36. Intentionally omitted.

6 § 37. Section 490 of the tax law, as added by chapter 90 of the laws
7 of 2014, is amended to read as follows:

8 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
9 ~~definitions of terms applicable to title five-A of article thirty-three~~
10 ~~of the public health law shall apply to this article.~~] For purposes of
11 this article, the terms "medical cannabis," "registered organization,"
12 "certified patient," and "designated caregiver" shall have the same
13 definitions as in section three of the cannabis law.

14 (b) As used in this section, where not otherwise specifically defined
15 and unless a different meaning is clearly required "gross receipt" means
16 the amount received in or by reason of any sale, conditional or other-
17 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
18 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
19 cannabis provided by a registered organization to a certified patient or
20 designated caregiver. Gross receipt is expressed in money, whether paid
21 in cash, credit or property of any kind or nature, and shall be deter-
22 mined without any deduction therefrom on account of the cost of the
23 service sold or the cost of materials, labor or services used or other
24 costs, interest or discount paid, or any other expenses whatsoever.
25 "Amount received" for the purpose of the definition of gross receipt, as
26 the term gross receipt is used throughout this article, means the amount
27 charged for the provision of medical [~~marihuana~~] cannabis.

28 2. There is hereby imposed an excise tax on the gross receipts from
29 the sale of medical [~~marihuana~~] cannabis by a registered organization to
30 a certified patient or designated caregiver, to be paid by the regis-
31 tered organization, at the rate of seven percent. The tax imposed by
32 this article shall be charged against and be paid by the registered
33 organization and shall not be added as a separate charge or line item on
34 any sales slip, invoice, receipt or other statement or memorandum of the
35 price given to the retail customer.

36 3. The commissioner may make, adopt and amend rules, regulations,
37 procedures and forms necessary for the proper administration of this
38 article.

39 4. Every registered organization that makes sales of medical [~~marihua-~~
40 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
41 before the twentieth date of each month, file with the commissioner a
42 return on forms to be prescribed by the commissioner, showing its
43 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
44 preceding calendar month and the amount of tax due thereon. Such returns
45 shall contain such further information as the commissioner may require.
46 Every registered organization required to file a return under this
47 section shall, at the time of filing such return, pay to the commission-
48 er the total amount of tax due on its retail sales of medical [~~marihua-~~
49 ~~na~~] cannabis for the period covered by such return. If a return is not
50 filed when due, the tax shall be due on the day on which the return is
51 required to be filed.

52 5. Whenever the commissioner shall determine that any moneys received
53 under the provisions of this article were paid in error, he may cause
54 the same to be refunded, with interest, in accordance with such rules
55 and regulations as he may prescribe, except that no interest shall be
56 allowed or paid if the amount thereof would be less than one dollar.

1 Such interest shall be at the overpayment rate set by the commissioner
2 pursuant to subdivision twenty-sixth of section one hundred seventy-one
3 of this chapter, or if no rate is set, at the rate of six percent per
4 annum, from the date when the tax, penalty or interest to be refunded
5 was paid to a date preceding the date of the refund check by not more
6 than thirty days. Provided, however, that for the purposes of this
7 subdivision, any tax paid before the last day prescribed for its payment
8 shall be deemed to have been paid on such last day. Such moneys received
9 under the provisions of this article which the commissioner shall deter-
10 mine were paid in error, may be refunded out of funds in the custody of
11 the comptroller to the credit of such taxes provided an application
12 therefor is filed with the commissioner within two years from the time
13 the erroneous payment was made.

14 6. The provisions of article twenty-seven of this chapter shall apply
15 to the tax imposed by this article in the same manner and with the same
16 force and effect as if the language of such article had been incorpo-
17 rated in full into this section and had expressly referred to the tax
18 imposed by this article, except to the extent that any provision of such
19 article is either inconsistent with a provision of this article or is
20 not relevant to this article.

21 7. All taxes, interest and penalties collected or received by the
22 commissioner under this article shall be deposited and disposed of
23 pursuant to the provisions of section one hundred seventy-one-a of this
24 chapter, provided that an amount equal to one hundred percent collected
25 under this article less any amount determined by the commissioner to be
26 reserved by the comptroller for refunds or reimbursements shall be paid
27 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
28 trust fund established by section eighty-nine-h of the state finance
29 law.

30 8. A registered organization that dispenses medical [~~marihuana~~] canna-
31 bis shall provide to the department information on where the medical
32 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
33 cannabis was manufactured. A registered organization that obtains [~~mari-~~
34 ~~huana~~] cannabis from another registered organization shall obtain from
35 such registered organization information on where the medical [~~marihua-~~
36 ~~na~~] cannabis was manufactured.

37 § 38. Section 491 of the tax law, as added by chapter 90 of the laws
38 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
39 of the laws of 2016, is amended to read as follows:

40 § 491. Returns to be secret. 1. Except in accordance with proper judi-
41 cial order or as in this section or otherwise provided by law, it shall
42 be unlawful for the commissioner, any officer or employee of the depart-
43 ment, or any officer or person who, pursuant to this section, is permit-
44 ted to inspect any return or report or to whom a copy, an abstract or a
45 portion of any return or report is furnished, or to whom any information
46 contained in any return or report is furnished, or any person engaged or
47 retained by such department on an independent contract basis or any
48 person who in any manner may acquire knowledge of the contents of a
49 return or report filed pursuant to this article to divulge or make known
50 in any manner the contents or any other information relating to the
51 business of a distributor, owner or other person contained in any return
52 or report required under this article. The officers charged with the
53 custody of such returns or reports shall not be required to produce any
54 of them or evidence of anything contained in them in any action or
55 proceeding in any court, except on behalf of the [~~state, the state~~
56 ~~department of health~~] cannabis control board, or the commissioner in an

1 action or proceeding under the provisions of this chapter or on behalf
2 of the state or the commissioner in any other action or proceeding
3 involving the collection of a tax due under this chapter to which the
4 state or the commissioner is a party or a claimant or on behalf of any
5 party to any action or proceeding under the provisions of this article,
6 when the returns or the reports or the facts shown thereby are directly
7 involved in such action or proceeding, or in an action or proceeding
8 relating to the regulation or taxation of medical [~~marihuana~~] cannabis
9 on behalf of officers to whom information shall have been supplied as
10 provided in subdivision two of this section, in any of which events the
11 court may require the production of, and may admit in evidence so much
12 of said returns or reports or of the facts shown thereby as are perti-
13 nent to the action or proceeding and no more. Nothing herein shall be
14 construed to prohibit the commissioner, in his or her discretion, from
15 allowing the inspection or delivery of a certified copy of any return or
16 report filed under this article or of any information contained in any
17 such return or report by or to a duly authorized officer or employee of
18 the [~~state department of health~~] cannabis control board; or by or to the
19 attorney general or other legal representatives of the state when an
20 action shall have been recommended or commenced pursuant to this chapter
21 in which such returns or reports or the facts shown thereby are directly
22 involved; or the inspection of the returns or reports required under
23 this article by the comptroller or duly designated officer or employee
24 of the state department of audit and control, for purposes of the audit
25 of a refund of any tax paid by a registered organization or other person
26 under this article; nor to prohibit the delivery to a registered organ-
27 ization, or a duly authorized representative of such registered organ-
28 ization, a certified copy of any return or report filed by such regis-
29 tered organization pursuant to this article, nor to prohibit the
30 publication of statistics so classified as to prevent the identification
31 of particular returns or reports and the items thereof. This section
32 shall also not be construed to prohibit the disclosure, for tax adminis-
33 tration purposes, to the division of the budget and the office of the
34 state comptroller, of information aggregated from the returns filed by
35 all the registered organizations making sales of, or manufacturing,
36 medical [~~marihuana~~] cannabis in a specified county, whether the number
37 of such registered organizations is one or more. Provided further that,
38 notwithstanding the provisions of this subdivision, the commissioner
39 may, in his or her discretion, permit the proper officer of any county
40 entitled to receive an allocation, following appropriation by the legis-
41 lature, pursuant to this article and section eighty-nine-h of the state
42 finance law, or the authorized representative of such officer, to
43 inspect any return filed under this article, or may furnish to such
44 officer or the officer's authorized representative an abstract of any
45 such return or supply such officer or such representative with informa-
46 tion concerning an item contained in any such return, or disclosed by
47 any investigation of tax liability under this article.

48 2. The commissioner, in his or her discretion and pursuant to such
49 rules and regulations as he or she may adopt, may permit [~~the commis-~~
50 ~~sioner of internal revenue of the United States, or~~] the appropriate
51 officers of any other state which regulates or taxes medical [~~marihuana~~]
52 cannabis, or the duly authorized representatives of such [~~commissioner~~
53 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
54 this article, or may furnish to such [~~commissioner or~~] other officers,
55 or duly authorized representatives, a copy of any such return or report
56 or an abstract of the information therein contained, or any portion

1 thereof, or may supply [~~such commissioner or~~] any such officers or such
 2 representatives with information relating to the business of a regis-
 3 tered organization making returns or reports hereunder. The commissioner
 4 may refuse to supply information pursuant to this subdivision [~~to the~~
 5 ~~commissioner of internal revenue of the United States or~~] to the offi-
 6 cers of any other state if the statutes [~~of the United States, or~~] of
 7 the state represented by such officers, do not grant substantially simi-
 8 lar privileges to the commissioner, but such refusal shall not be manda-
 9 tory. Information shall not be supplied to [~~the commissioner of internal~~
 10 ~~revenue of the United States or~~] the appropriate officers of any other
 11 state which regulates or taxes medical [~~marihuana~~ cannabis, or the duly
 12 authorized representatives [~~of such commissioner or~~] of any of such
 13 officers, unless such [~~commissioner,~~] officer or other representatives
 14 shall agree not to divulge or make known in any manner the information
 15 so supplied, but such officers may transmit such information to their
 16 employees or legal representatives when necessary, who in turn shall be
 17 subject to the same restrictions as those hereby imposed upon such
 18 [~~commissioner,~~] officer or other representatives.

19 3. (a) Any officer or employee of the state who willfully violates the
 20 provisions of subdivision one or two of this section shall be dismissed
 21 from office and be incapable of holding any public office in this state
 22 for a period of five years thereafter.

23 (b) Cross-reference: For criminal penalties, see article thirty-seven
 24 of this chapter.

25 § 39. The tax law is amended by adding a new article 20-C to read as
 26 follows:

27 ARTICLE 20-C

28 TAX ON ADULT-USE CANNABIS PRODUCTS

29 Section 492. Definitions.

30 493. Tax on cannabis.

31 494. Registration and renewal.

32 495. Returns and payment of tax.

33 496. Returns to be kept secret.

34 § 492. Definitions. For purposes of this article, the following defi-
 35 nitions shall apply:

36 (a) "Cannabis" shall have the same meaning as in section three of the
 37 cannabis law. For purposes of this article, cannabis does not include
 38 medical cannabis or cannabinoid hemp and hemp extract as defined in
 39 section three of the cannabis law.

40 (b) "Cannabis product" or "adult-use cannabis product" means a canna-
 41 bis product as defined in section three of the cannabis law. For
 42 purposes of this article, under no circumstances shall adult-use canna-
 43 bis product include medical cannabis or cannabinoid hemp and hemp
 44 extract as defined in section three of the cannabis law.

45 (c) "Person" means every individual, partnership, limited liability
 46 company, society, association, joint stock company, corporation, estate,
 47 receiver, trustee, assignee, referee, and any other person acting in a
 48 fiduciary or representative capacity, whether appointed by a court or
 49 otherwise, and any combination of the foregoing.

50 (d) "Retail dispensary" means a dispensary licensed to sell adult-use
 51 cannabis products pursuant to section seventy-two of the cannabis law.

52 (e) "Transfer" means to grant, convey, hand over, assign, sell,
 53 exchange or barter, in any manner or by any means, with or without
 54 consideration.

1 (f) "Sale" means any transfer of title, possession or both, exchange
2 or barter, rental, lease or license to use or consume, conditional or
3 otherwise, in any manner or by any means whatsoever for a consideration
4 or any agreement therefor.

5 § 493. Tax on cannabis. (a) There is hereby imposed a tax on the sale
6 or transfer of adult-use cannabis products by any person to a retail
7 dispensary at the rate of eighteen percent of the amount charged by
8 such person for adult-use cannabis products, which shall accrue at the
9 time of such sale or transfer. Where the retail dispensary is operated
10 by a person licensed under the cannabis law as a registered organiza-
11 tion, such tax shall be paid by the retail dispensary at the rate of
12 eighteen percent of the price charged to the retail customer and shall
13 accrue at the time of such sale.

14 (b) In addition to the taxes imposed by subdivision (a) of this
15 section, there is hereby imposed a tax on the sale or transfer of
16 adult-use cannabis products by any person to a retail dispensary at the
17 rate of one percent of the amount charged by such person for such
18 adult-use cannabis products, which shall accrue at the time of such sale
19 or transfer. The tax imposed by this subdivision shall be in trust for
20 and on account of a city having a population of one million or more, or
21 a county, other than a county wholly within such a city, in which the
22 retail dispensary is located. Where the retail dispensary is operated by
23 a person licensed under the cannabis law as a registered organization,
24 such tax shall be paid by the retail dispensary at the rate of one
25 percent of the price charged to the retail customer.

26 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
27 this section, there is hereby imposed a tax on the sale or transfer of
28 adult-use cannabis products by any person to a retail dispensary at the
29 rate of three percent of the amount charged by such person for such
30 adult-use cannabis products, which shall accrue at the time of such sale
31 or transfer. The tax imposed by this subdivision shall be in trust for
32 and on account of the town, village, or city in which the retail dispen-
33 sary is located. Where the retail dispensary is operated by a person
34 licensed under the cannabis law as a registered organization, such tax
35 shall be paid by the retail dispensary at the rate of three percent of
36 the price charged to the retail customer.

37 (d) It shall be presumed that all adult-use cannabis products within
38 the state are subject to tax until the contrary is established, and the
39 burden of proof that the taxes imposed by subdivisions (a), (b) and (c)
40 of this section have been paid shall be upon the person in possession
41 thereof where such person holds any license under the cannabis law.
42 Every person holding a license under the cannabis law who possesses
43 adult-use cannabis products upon which such taxes have not been paid
44 shall be liable for the payment of such taxes, and the failure of such
45 person to produce to the commissioner or his or her authorized represen-
46 tative upon demand an invoice for any adult-use cannabis products in his
47 or her possession shall be presumptive evidence that the tax thereon has
48 not been paid and that such person is liable for the tax thereon, unless
49 evidence of such invoice or payment is later produced.

50 (e) Notwithstanding any other provision of law to the contrary, the
51 taxes imposed by article twenty of this chapter shall not apply to any
52 product subject to tax under this article.

53 § 494. Registration and renewal. (a) Every person to whom adult-use
54 cannabis products are sold or transferred, and every person licensed as
55 a microbusiness, cooperative or registered organization under the canna-
56 bis law must file with the commissioner a properly completed application

1 for a certificate of registration before engaging in business. In order
2 to apply for such certificate of registration, such person must first be
3 in possession of a valid license from the office of cannabis management.
4 An application for a certificate of registration must be submitted elec-
5 tronically, on a form prescribed by the commissioner, and must be accom-
6 panied by a non-refundable application fee of six hundred dollars. A
7 certificate of registration shall not be assignable or transferable and
8 shall be destroyed immediately upon such person ceasing to do business
9 as specified in such certificate, or in the event that such business
10 never commenced.

11 (b) The commissioner shall refuse to issue a certificate of registra-
12 tion to any applicant and shall revoke the certificate of registration
13 of any such person who does not possess a valid license from the office
14 of cannabis management. The commissioner may refuse to issue a certif-
15 icate of registration to any applicant where such applicant: (1) has a
16 past-due liability as that term is defined in section one hundred seven-
17 ty-one-v of this chapter; (2) has had a certificate of registration
18 under this article, a license from the office of cannabis management, or
19 any license or registration provided for in this chapter revoked within
20 one year from the date on which such application was filed; (3) has had
21 a certificate of registration under this article, a license from the
22 office of cannabis management, or any license or registration provided
23 for in this chapter suspended where the suspension is in effect on the
24 date the application is filed or ended less than one year from such
25 date; (4) has been convicted of a crime provided for in this chapter
26 within one year from the date on which such application was filed or the
27 certificate was issued as applicable; (5) willfully fails to file a
28 report or return required by this article; (6) willfully files, causes
29 to be filed, gives or causes to be given a report, return, certificate
30 or affidavit required by this article which is false; or (7) willfully
31 fails to collect or truthfully account for or pay over any tax imposed
32 by this article.

33 (c) A certificate of registration shall be valid for the period speci-
34 fied thereon, unless earlier suspended or revoked. Upon the expiration
35 of the term stated on a certificate of registration, such certificate
36 shall be null and void.

37 (d) Every holder of a certificate of registration must notify the
38 commissioner of changes to any of the information stated on the certif-
39 icate, or of changes to any information contained in the application for
40 the certificate of registration. Such notification must be made on or
41 before the last day of the month in which a change occurs and must be
42 made electronically on a form prescribed by the commissioner.

43 (e) Every holder of a certificate of registration under this article
44 shall be required to reapply prior to such certificate's expiration,
45 during a reapplication period established by the commissioner. Such
46 reapplication period shall not occur more frequently than every two
47 years. Such reapplication shall be subject to the same requirements and
48 conditions as an initial application, including grounds for refusal and
49 the payment of the application fee.

50 (f) Any person who is required to obtain a certificate of registration
51 under subdivision (a) of this section who possesses adult-use cannabis
52 products without such certificate shall be subject to a penalty of five
53 hundred dollars for each month or part thereof during which adult-use
54 cannabis products are possessed without such certificate, not to exceed
55 ten thousand dollars in the aggregate.

1 § 495. Returns and payment of tax. (a) 1. Every person to whom
2 adult-use cannabis products are sold or transferred, and every person
3 licensed as a microbusiness, cooperative or registered organization
4 under the cannabis law shall, on or before the twentieth day of the
5 month, file with the commissioner a return on forms to be prescribed by
6 the commissioner, the total amount of tax due thereon in the preceding
7 calendar month, and the total amount of tax due under subdivisions (a),
8 (b) and (c) of section four hundred ninety-three of this article on its
9 sales to a retail dispensary during the preceding calendar month, along
10 with such other information as the commissioner may require. Every
11 person required to file a return under this section shall, at the time
12 of filing such return, pay to the commissioner the total amount of tax
13 due for the period covered by such return. If a return is not filed when
14 due, the tax shall be due on the day on which the return is required to
15 be filed.

16 2. Every person to whom adult-use cannabis products are sold or trans-
17 ferred, and every person licensed as a microbusiness, cooperative or
18 registered organization under the cannabis law shall maintain complete
19 and accurate records in such form as the commissioner may require
20 including, but not limited to, such items as the geographic location of
21 every retail dispensary to which such person sold or transferred adult-
22 use cannabis products; and any other record or information required by
23 the commissioner. Such records must be preserved for a period of three
24 years after the filing of the return to which such records relate and
25 must be provided to the commissioner upon request.

26 (b) The provisions of article twenty-seven of this chapter shall apply
27 to the tax imposed by this article in the same manner and with the same
28 force and effect as if the language of such article had been incorpo-
29 rated in full into this section and had expressly referred to the tax
30 imposed by this article, except to the extent that any provision of such
31 article is either inconsistent with a provision of this article or is
32 not relevant to this article.

33 (c) 1. All taxes, interest, and penalties collected or received by the
34 commissioner under this article shall be deposited and disposed of
35 pursuant to the provisions of section one hundred seventy-one-a of this
36 chapter, provided that an amount equal to one hundred percent collected
37 under this article less any amount determined by the commissioner to be
38 reserved by the comptroller for refunds or reimbursements shall be paid
39 by the comptroller to the credit of the cannabis revenue fund estab-
40 lished by section ninety-nine-ii of the state finance law. Of the total
41 revenue collected or received under this article, the comptroller shall
42 retain such amount as the commissioner may determine to be necessary for
43 refunds. The commissioner is authorized and directed to deduct from the
44 registration fees under subdivision (a) of section four hundred ninety-
45 four of this article, before deposit into the cannabis revenue fund
46 designated by the comptroller, a reasonable amount necessary to effectuate
47 refunds of appropriations of the department to reimburse the depart-
48 ment for the costs incurred to administer, collect, and distribute the
49 taxes imposed by this article.

50 2. Notwithstanding the foregoing, the commissioner shall certify to
51 the comptroller the total amount of tax, penalty and interest received
52 by him or her on account of the tax imposed by subdivisions (b) and (c)
53 of section four hundred ninety-three of this article in trust for and on
54 account of each county and city having a population of one million or
55 more, other than a county wholly within such a city, and the town,
56 village or city in which a retail dispensary is located. On or before

1 the twelfth day of each month, the comptroller, after reserving such
2 fund, shall pay to the appropriate fiscal officer of each such county
3 and city and a designated officer of such town or village or city the
4 taxes, penalties and interest received and certified by the commissioner
5 for the preceding calendar month.

6 3. In addition to any other penalty provided in this article or other-
7 wise imposed by law: every person to whom adult-use cannabis products
8 are sold or transferred, and every person licensed as a microbusiness,
9 cooperative or registered organization under the cannabis law who fails
10 to maintain or make available to the commissioner the records required
11 by this section is subject to a penalty not to exceed five hundred
12 dollars for the first month or part thereof for which the failure
13 occurs. This penalty may not be imposed more than once for failures for
14 the same monthly period or part thereof. If the commissioner determines
15 that a failure to maintain or make available records in any month was
16 entirely due to reasonable cause and not to willful neglect, the commis-
17 sioner must remit the penalty for that month.

18 § 496. Returns to be kept secret. (a) Except in accordance with proper
19 judicial order or as in this section or otherwise provided by law, it
20 shall be unlawful for the commissioner, any officer or employee of the
21 department, or any officer or person who, pursuant to this section, is
22 permitted to inspect any return or report or to whom a copy, an abstract
23 or a portion of any return or report is furnished, or to whom any infor-
24 mation contained in any return or report is furnished, or any person who
25 in any manner may acquire knowledge of the contents of a return or
26 report filed pursuant to this article to divulge or make known in any
27 manner the content or any other information related to the business of
28 the wholesaler contained in any return or report required under this
29 article. The officers charged with the custody of such returns or
30 reports shall not be required to produce any of them or evidence of
31 anything contained in them in any action or proceeding in any court,
32 except on behalf of the state, the office of cannabis management, or the
33 commissioner in an action or proceeding involving the collection of tax
34 due under this chapter to which the state or the commissioner is a party
35 or a claimant or on behalf of any party to any action or proceeding
36 under the provisions of this article, when the returns or the reports or
37 the facts shown thereby are directly involved in such action or proceed-
38 ing, or in an action or proceeding related to the regulation or taxation
39 of adult-use cannabis products on behalf of officers to whom information
40 shall have been supplied as provided in this section, in any of which
41 events the courts may require the production of, and may admit in
42 evidence so much of said returns or reports or of the facts shown there-
43 by as are pertinent to the action or proceeding and no more. Nothing
44 herein shall be construed to prohibit the commissioner, in his or her
45 discretion, from allowing the inspection or delivery of a certified copy
46 of any return or report filed under this article or of any information
47 contained in any such return or report by or to a duly authorized offi-
48 cer or employee of the cannabis control board or by or to the attorney
49 general or other legal representatives of the state when an action shall
50 have been recommended or commenced pursuant to this chapter in which
51 such returns or reports or the facts shown thereby are directly
52 involved; or the inspection of the returns or reports required under
53 this article by the comptroller or duly designated officer or employee
54 of the state department of audit and control, for purposes of the audit
55 of a refund of any tax paid by the wholesaler under this article; nor to
56 prohibit the delivery to such person or a duly authorized representative

1 of such person, a certified copy of any return or report filed by such
2 person pursuant to this article, nor to prohibit the publication of
3 statistics so classified as to prevent the identification of particular
4 returns or reports and the items thereof. This section shall also not be
5 construed to prohibit the disclosure, for tax administration purposes,
6 to the division of the budget and the office of the state comptroller,
7 of information aggregated from the returns filed by all wholesalers
8 purchasing and selling such products in the state, whether the number of
9 such persons is one or more. Provided further that, notwithstanding the
10 provisions of this subdivision, the commissioner may in his or her
11 discretion, permit the proper officer of any county entitled to receive
12 any distribution of the monies received on account of the tax imposed by
13 subdivisions (b) and (c) of section four hundred ninety-three of this
14 article, or the authorized representative of such officer, to inspect
15 any return filed under this article, or may furnish to such officer or
16 the officer's authorized representative an abstract of any such return
17 or supply such officer or representative with information concerning an
18 item contained in any such return, or disclosed by any investigation of
19 tax liability under this article.

20 (b) The commissioner, in his or her discretion, may permit the appro-
21 priate officers of any other state that regulates or taxes cannabis or
22 the duly authorized representatives of such commissioner or of any such
23 officers, to inspect returns or reports made pursuant to this article,
24 or may furnish to the commissioner or other officer, or duly authorized
25 representatives, a copy of any such return or report or an abstract of
26 the information therein contained, or any portion thereof, or may supply
27 such commissioner or any such officers or such representatives with
28 information relating to the business of a wholesaler making returns or
29 reports hereunder solely for purposes of tax administration. The commis-
30 sioner may refuse to supply information pursuant to this subdivision to
31 the officers of any other state if the statutes of the state represented
32 by such officers do not grant substantially similar privileges to the
33 commissioner, but such refusal shall not be mandatory. Information shall
34 not be supplied to the appropriate officers of any state that regulates
35 or taxes cannabis, or the duly authorized representatives of such
36 commissioner or of any such officers, unless such commissioner, officer,
37 or other representatives shall agree not to divulge or make known in any
38 manner the information so supplied, but such officers may transmit such
39 information to their employees or legal representatives when necessary,
40 who in turn shall be subject to the same restrictions as those hereby
41 imposed upon such commissioner, officer or other representatives.

42 (c) 1. Any officer or employee of the state who willfully violates the
43 provisions of subdivision (a) or (b) of this section shall be dismissed
44 from office and be incapable of holding any public office in the state
45 for a period of five years thereafter.

46 2. For criminal penalties, see article thirty-seven of this chapter.

47 § 40. Subdivision (a) of section 1115 of the tax law is amended by
48 adding a new paragraph 3-b to read as follows:

49 (3-b) Adult-use cannabis products as defined by article twenty-C of
50 this chapter.

51 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public
52 health law, the tax law, the state finance law, the general business
53 law, the penal law and the criminal procedure law relating to medical
54 use of marihuana, is amended to read as follows:

55 § 12. This act shall take effect immediately [~~and~~]; provided, however
56 that sections one, three, five, six, seven-a, eight, nine, ten and elev-

1 en of this act shall expire and be deemed repealed seven years after
2 such date; provided that the amendments to section 171-a of the tax law
3 made by section seven of this act shall take effect on the same date and
4 in the same manner as section 54 of part A of chapter 59 of the laws of
5 2014 takes effect and shall not expire and be deemed repealed; and
6 provided, further, that the amendments to subdivision 5 of section
7 410.91 of the criminal procedure law made by section eleven of this act
8 shall not affect the expiration and repeal of such section and shall
9 expire and be deemed repealed therewith.

10 § 42. The cannabis control board, in consultation with the division of
11 the budget, the department of taxation and finance, the department of
12 health, office of addiction services and supports, office of mental
13 health, New York state police and the division of criminal justice
14 services, shall conduct a study of the implementation of this act. Such
15 study shall examine all aspects of this act, including economic and
16 fiscal impacts, the impact on the public health and safety of New York
17 residents, the progress made in achieving social and economic justice
18 goals, and toward eliminating the illegal market for cannabis products
19 in New York. The board shall make recommendations regarding if the
20 changes to level of taxation of adult-use cannabis is appropriate, as
21 well as changes, if any, necessary to improve and protect the public
22 health and safety of New Yorkers. Such study shall be completed two
23 years after the effective date of this act and shall be presented to the
24 governor, the temporary president of the senate and the speaker of the
25 assembly, no later than October 1, 2023.

26 § 43. Section 102 of the alcoholic beverage control law is amended by
27 adding a new subdivision 8 to read as follows:

28 8. No alcoholic beverage retail licensee shall sell cannabis, as
29 defined in section three of the cannabis law, nor have or possess a
30 license or permit to sell cannabis, on the same premises where alcoholic
31 beverages are sold.

32 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
33 general obligations law, as added by chapter 406 of the laws of 2000,
34 are amended to read as follows:

35 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
36 possession of which is an offense under the public health law or the
37 penal law.

38 4. "Grade one violation" means possession of one-quarter ounce or
39 more, but less than four ounces, or distribution of less than one ounce
40 of an illegal drug [~~other than marijuana, or possession of one pound or~~
41 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~
42 ~~or distribution of less than one pound of marijuana~~].

43 5. "Grade two violation" means possession of four ounces or more, but
44 less than eight ounces, or distribution of one ounce or more, but less
45 than two ounces, of an illegal drug [~~other than marijuana, or possession~~
46 ~~of four pounds or more or fifty plants or distribution of more than one~~
47 ~~pound but less than ten pounds of marijuana~~].

48 6. "Grade three violation" means possession of eight ounces or more,
49 but less than sixteen ounces, or distribution of two ounces or more, but
50 less than four ounces, of a specified illegal drug [~~or possession of~~
51 ~~eight pounds or more or seventy-five plants or more, but less than~~
52 ~~sixteen pounds or one hundred plants, or distribution of more than five~~
53 ~~pounds but less than ten pounds of marijuana~~].

54 7. "Grade four violation" means possession of sixteen ounces or more
55 or distribution of four ounces or more of a specified illegal drug [~~or~~

~~1 possession of sixteen pounds or more or one hundred plants or more or
2 distribution of ten pounds or more of marijuana].~~

3 13. "Drug trafficker" means a person convicted of a class A or class B
4 felony controlled substance [~~or marijuana offense~~] who, in connection
5 with the criminal conduct for which he or she stands convicted,
6 possessed, distributed, sold or conspired to sell a controlled substance
7 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
8 role in the enterprise responsible for the sale or distribution of such
9 controlled substance and other circumstances related to such criminal
10 conduct indicate that such person's criminal possession, sale or
11 conspiracy to sell such substance was not an isolated occurrence and was
12 part of an ongoing pattern of criminal activity from which such person
13 derived substantial income or resources and in which such person played
14 a leadership role.

15 § 45. Paragraph (g) of subdivision 1 of section 488 of the social
16 services law, as added by section 1 of part B of chapter 501 of the laws
17 of 2012, is amended to read as follows:

18 (g) "Unlawful use or administration of a controlled substance," which
19 shall mean any administration by a custodian to a service recipient of:
20 a controlled substance as defined by article thirty-three of the public
21 health law, without a prescription; or other medication not approved for
22 any use by the federal food and drug administration, except for the
23 administration of medical cannabis when such administration is in
24 accordance with article three of the cannabis law. It also shall include
25 a custodian unlawfully using or distributing a controlled substance as
26 defined by article thirty-three of the public health law, at the work-
27 place or while on duty.

28 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
29 social services law, as added by section 1 of part B of chapter 501 of
30 the laws of 2012, are amended and a new paragraph (g) is added to read
31 as follows:

32 (e) information regarding individual reportable incidents, incident
33 patterns and trends, and patterns and trends in the reporting and
34 response to reportable incidents is shared, consistent with applicable
35 law, with the justice center, in the form and manner required by the
36 justice center and, for facilities or provider agencies that are not
37 state operated, with the applicable state oversight agency which shall
38 provide such information to the justice center; ~~and]~~

39 (f) incident review committees are established; provided, however,
40 that the regulations may authorize an exemption from this requirement,
41 when appropriate, based on the size of the facility or provider agency
42 or other relevant factors. Such committees shall be composed of members
43 of the governing body of the facility or provider agency and other
44 persons identified by the director of the facility or provider agency,
45 including some members of the following: direct support staff, licensed
46 health care practitioners, service recipients and representatives of
47 family, consumer and other advocacy organizations, but not the director
48 of the facility or provider agency. Such committee shall meet regularly
49 to: (i) review the timeliness, thoroughness and appropriateness of the
50 facility or provider agency's responses to reportable incidents; (ii)
51 recommend additional opportunities for improvement to the director of
52 the facility or provider agency, if appropriate; (iii) review incident
53 trends and patterns concerning reportable incidents; and (iv) make
54 recommendations to the director of the facility or provider agency to
55 assist in reducing reportable incidents. Members of the committee shall

1 be trained in confidentiality laws and regulations, and shall comply
2 with section seventy-four of the public officers law~~[-]; and~~

3 (g) safe storage, administration, and diversion prevention policies
4 regarding controlled substances and medical cannabis.

5 § 47. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
6 law, as added by chapter 90 of the laws of 2014, are amended to read as
7 follows:

8 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
9 nitions.

10 The following definitions are applicable to this article:

11 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
12 as defined in [~~subdivision eight of section thirty three hundred sixty~~
13 ~~of the public health law~~] section three of the cannabis law.

14 2. "Certification" means a certification, made under section [~~thirty-~~
15 ~~three hundred sixty one of the public health law~~] thirty of the cannabis
16 law.

17 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
18 tions.

19 The provisions of this article shall not apply to:

20 1. a practitioner authorized to issue a certification who acted in
21 good faith in the lawful course of his or her profession; or

22 2. a registered organization as that term is defined in [~~subdivision~~
23 ~~nine of section thirty three hundred sixty of the public health law~~]
24 section thirty-four of the cannabis law who acted in good faith in the
25 lawful course of the practice of pharmacy; or

26 3. a person who acted in good faith seeking treatment for a medical
27 condition or assisting another person to obtain treatment for a medical
28 condition.

29 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
30 degree.

31 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
32 bis in the first degree when he or she is a practitioner, as that term
33 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
34 ~~of the public health law~~] section three of the cannabis law, who issues
35 a certification with knowledge of reasonable grounds to know that (i)
36 the recipient has no medical need for it, or (ii) it is for a purpose
37 other than to treat a [~~serious~~] condition as defined in [~~subdivision~~
38 ~~seven of section thirty three hundred sixty of the public health law~~]
39 section three of the cannabis law.

40 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
41 is a class E felony.

42 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
43 second degree.

44 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
45 bis in the second degree when he or she sells, trades, delivers, or
46 otherwise provides medical [~~marihuana~~] cannabis to another with know-
47 ledge or reasonable grounds to know that the recipient is not registered
48 under [~~title five-A of article thirty three of the public health law~~]
49 article three of the cannabis law.

50 Criminal diversion of medical [~~marihuana~~] cannabis in the second
51 degree is a class B misdemeanor.

52 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

53 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
54 bis when, being a certified patient or designated caregiver, as those
55 terms are defined in [~~subdivisions three and five of section thirty-~~
56 ~~three hundred sixty of the public health law, respectively~~] section

1 three of the cannabis law, he or she knowingly obtains, possesses,
2 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
3 amount he or she is authorized to possess under the provisions of [~~title~~
4 ~~five-A of article thirty-three of the public health law~~] article three
5 of the cannabis law.

6 Criminal retention of medical [~~marihuana is a class A misdemeanor~~]
7 cannabis shall be punishable as provided in section 222.25 of this chap-
8 ter.

9 § 48. Section 220.78 of the penal law, as added by chapter 154 of the
10 laws of 2011, is amended to read as follows:

11 § 220.78 Witness or victim of drug or alcohol overdose.

12 1. A person who, in good faith, seeks health care for someone who is
13 experiencing a drug or alcohol overdose or other life threatening
14 medical emergency shall not be charged or prosecuted for a controlled
15 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~
16 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two
17 of this title, other than an offense involving sale for consideration or
18 other benefit or gain, or charged or prosecuted for possession of alco-
19 hol by a person under age twenty-one years under section sixty-five-c of
20 the alcoholic beverage control law, or for possession of drug parapher-
21 nalia under article thirty-nine of the general business law, with
22 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or
23 paraphernalia that was obtained as a result of such seeking or receiving
24 of health care.

25 2. A person who is experiencing a drug or alcohol overdose or other
26 life threatening medical emergency and, in good faith, seeks health care
27 for himself or herself or is the subject of such a good faith request
28 for health care, shall not be charged or prosecuted for a controlled
29 substance offense under this article or a [~~marihuana~~] cannabis offense
30 under article two hundred [~~twenty-one~~] twenty-two of this title, other
31 than an offense involving sale for consideration or other benefit or
32 gain, or charged or prosecuted for possession of alcohol by a person
33 under age twenty-one years under section sixty-five-c of the alcoholic
34 beverage control law, or charged or prosecuted for possession of canna-
35 bis or concentrated cannabis by a person under the age of twenty-one
36 under section one hundred thirty-two of the cannabis law, or for
37 possession of drug paraphernalia under article thirty-nine of the gener-
38 al business law, with respect to any substance, [~~marihuana~~] cannabis,
39 alcohol or paraphernalia that was obtained as a result of such seeking
40 or receiving of health care.

41 3. Definitions. As used in this section the following terms shall have
42 the following meanings:

43 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
44 including, but not limited to, physical illness, coma, mania, hysteria
45 or death, which is the result of consumption or use of a controlled
46 substance or alcohol and relates to an adverse reaction to or the quan-
47 tity of the controlled substance or alcohol or a substance with which
48 the controlled substance or alcohol was combined; provided that a
49 patient's condition shall be deemed to be a drug or alcohol overdose if
50 a prudent layperson, possessing an average knowledge of medicine and
51 health, could reasonably believe that the condition is in fact a drug or
52 alcohol overdose and (except as to death) requires health care.

53 (b) "Health care" means the professional services provided to a person
54 experiencing a drug or alcohol overdose by a health care professional
55 licensed, registered or certified under title eight of the education law
56 or article thirty of the public health law who, acting within his or her

1 lawful scope of practice, may provide diagnosis, treatment or emergency
2 services for a person experiencing a drug or alcohol overdose.

3 4. It shall be an affirmative defense to a criminal sale controlled
4 substance offense under this article or a criminal sale of [~~marihuana~~
5 cannabis] offense under article two hundred [~~twenty-one~~] twenty-two of
6 this title, not covered by subdivision one or two of this section, with
7 respect to any controlled substance or [~~marihuana~~] cannabis which was
8 obtained as a result of such seeking or receiving of health care, that:

9 (a) the defendant, in good faith, seeks health care for someone or for
10 him or herself who is experiencing a drug or alcohol overdose or other
11 life threatening medical emergency; and

12 (b) the defendant has no prior conviction for the commission or
13 attempted commission of a class A-I, A-II or B felony under this arti-
14 cle.

15 5. Nothing in this section shall be construed to bar the admissibility
16 of any evidence in connection with the investigation and prosecution of
17 a crime with regard to another defendant who does not independently
18 qualify for the bar to prosecution or for the affirmative defense; nor
19 with regard to other crimes committed by a person who otherwise quali-
20 fies under this section; nor shall anything in this section be construed
21 to bar any seizure pursuant to law, including but not limited to pursu-
22 ant to section thirty-three hundred eighty-seven of the public health
23 law.

24 6. The bar to prosecution described in subdivisions one and two of
25 this section shall not apply to the prosecution of a class A-I felony
26 under this article, and the affirmative defense described in subdivision
27 four of this section shall not apply to the prosecution of a class A-I
28 or A-II felony under this article.

29 § 49. Subdivision 1 of section 260.20 of the penal law, as amended by
30 chapter 362 of the laws of 1992, is amended as follows:

31 1. He knowingly permits a child less than eighteen years old to enter
32 or remain in or upon a place, premises or establishment where sexual
33 activity as defined by article one hundred thirty, two hundred thirty or
34 two hundred sixty-three of this [~~chapter~~] part or activity involving
35 controlled substances as defined by article two hundred twenty of this
36 [~~chapter or involving marihuana as defined by article two hundred twen-~~
37 ~~ty one of this chapter~~] part is maintained or conducted, and he knows or
38 has reason to know that such activity is being maintained or conducted;
39 or

40 § 50. Section 89-h of the state finance law, as added by chapter 90 of
41 the laws of 2014, is amended to read as follows:

42 § 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby
43 established in the joint custody of the state comptroller and the
44 commissioner of taxation and finance a special fund to be known as the
45 "medical [~~marihuana~~] cannabis trust fund."

46 2. The medical [~~marihuana~~] cannabis trust fund shall consist of all
47 moneys required to be deposited in the medical [~~marihuana~~] cannabis
48 trust fund pursuant to the provisions of section four hundred ninety of
49 the tax law.

50 3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be
51 kept separate and shall not be commingled with any other moneys in the
52 custody of the commissioner of taxation and finance and the state comp-
53 troller.

54 4. The moneys of the medical [~~marihuana~~] cannabis trust fund, follow-
55 ing appropriation by the legislature, shall be allocated upon a certifi-
56 cate of approval of availability by the director of the budget as

1 follows: (a) Twenty-two and five-tenths percent of the monies shall be
2 transferred to the counties in New York state in which the medical
3 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
4 gross sales originating from medical [~~marihuana~~] cannabis manufactured
5 in each such county; (b) twenty-two and five-tenths percent of the
6 moneys shall be transferred to the counties in New York state in which
7 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
8 tion to the gross sales occurring in each such county; (c) five percent
9 of the monies shall be transferred to the office of [~~alcoholism and~~
10 ~~substance abuse services~~] addiction services and supports, which shall
11 use that revenue for additional drug abuse prevention, counseling and
12 treatment services; and (d) five percent of the revenue received by the
13 department shall be transferred to the division of criminal justice
14 services, which shall use that revenue for a program of discretionary
15 grants to state and local law enforcement agencies that demonstrate a
16 need relating to [~~title five A of article thirty-three of the public~~
17 ~~health law~~] article three of the cannabis law; said grants could be used
18 for personnel costs of state and local law enforcement agencies. For
19 purposes of this subdivision, the city of New York shall be deemed to be
20 a county.

21 § 51. The state finance law is amended by adding three new sections
22 99-ii, 99-jj and 99-kk to read as follows:

23 § 99-ii. New York state cannabis revenue fund. 1. There is hereby
24 established in the joint custody of the state comptroller and the
25 commissioner of taxation and finance a special fund to be known as the
26 "New York state cannabis revenue fund".

27 2. Such fund shall consist of all revenues received by the department
28 of taxation and finance, pursuant to the provisions of article twenty-C
29 of the tax law and all other moneys appropriated thereto from any other
30 fund or source pursuant to law. Nothing contained in this section shall
31 prevent the state from receiving grants, gifts or bequests for the
32 purposes of the fund as defined in this section and depositing them into
33 the fund according to law.

34 3. The moneys in such fund shall be expended for the following
35 purposes:

36 (a) Reasonable costs incurred by the department of taxation and
37 finance for administering and collecting the taxes imposed by this part;
38 provided, however, such costs shall not exceed four percent of tax
39 revenues received.

40 (b) Reasonable costs incurred by the office of cannabis management and
41 the cannabis control board for implementing, administering, and enforc-
42 ing the marihuana regulation and taxation act.

43 (c) Actual and necessary costs incurred by the office of cannabis
44 management and the cannabis control board related to the administration
45 of incubators and other assistance to qualified social and economic
46 equity applicants including low and zero interest loans provided to such
47 applicants pursuant to section sixteen-ee of the urban development
48 corporation act. Such costs shall be paid out of revenues received,
49 including, but not limited to, from special one-time fees paid by regis-
50 tered organizations pursuant to section sixty-three of the cannabis law.

51 (d) Beginning with the two thousand twenty-two--two thousand twenty-
52 three fiscal year and continuing through the two thousand thirty-two--
53 two thousand thirty-three fiscal year, the commissioner of taxation and
54 finance shall annually disburse the following sums for the purposes of
55 data collection and reporting:

1 (i) Reasonable costs incurred by the office of cannabis management
2 policy to track and report data related to the licensing of cannabis
3 businesses, including the geographic location, structure, and function
4 of licensed cannabis businesses, and demographic data, including race,
5 ethnicity, and gender, of applicants and license holders. The cannabis
6 control board shall publish reports on its findings annually and shall
7 make the reports available to the public.

8 (ii) Reasonable costs incurred by the department of criminal justice
9 services to track and report data related to any infractions,
10 violations, or criminal convictions that occur under any of the remain-
11 ing cannabis statutes. The department of criminal justice services
12 shall publish reports on its findings annually and shall make the
13 reports available to the public.

14 (iii) Reasonable costs incurred by agencies of the state, including
15 the state university of New York to research and evaluate the implemen-
16 tation and effect of the cannabis law. No more than four percent of
17 these monies may be used for expenses related to administrative costs of
18 conducting such research, and to, if appropriate, make recommendations
19 to the legislature and governor regarding possible amendments to the
20 cannabis law. The recipients of these funds shall publish reports on
21 their findings at a minimum of every two years and shall make the
22 reports available to the public. The research funded pursuant to this
23 subdivision shall include but not necessarily be limited to:

24 (A) the impact on public health, including health costs associated
25 with cannabis use, as well as whether cannabis use is associated with an
26 increase or decrease in use of alcohol or other drugs;

27 (B) the impact of treatment for cannabis use disorder and the effec-
28 tiveness of different treatment programs;

29 (C) public safety issues related to cannabis use, including, but not
30 limited to studying the effectiveness of the packaging and labeling
31 requirements and advertising and marketing restrictions contained in the
32 act at preventing underage access to and use of cannabis and cannabis
33 products, and studying the health-related effects among users of varying
34 potency levels of cannabis and cannabis products;

35 (D) cannabis use rates, maladaptive use rates for adults and youth,
36 and diagnosis rates of cannabis-related substance use disorders;

37 (E) cannabis market prices, illicit market prices, tax structures and
38 rates, including an evaluation of how to best tax cannabis based on
39 potency, and the structure and function of licensed cannabis businesses;

40 (F) whether additional protections are needed to prevent unlawful
41 monopolies or anti-competitive behavior from occurring in the cannabis
42 industry and, if so, recommendations as to the most effective measures
43 for preventing such behavior;

44 (G) the economic impacts in the private and public sectors, including
45 but not necessarily limited to, job creation, workplace safety, reven-
46 ues, taxes generated for state and local budgets, and criminal justice
47 impacts, including, but not necessarily limited to, impacts on law
48 enforcement and public resources, short and long term consequences of
49 involvement in the criminal justice system, and state and local govern-
50 ment agency administrative costs and revenue;

51 (H) whether the regulatory agencies tasked with implementing and
52 enforcing the marijuana regulation and taxation act are doing so
53 consistent with the intent and purposes of the act, and whether differ-
54 ent agencies might do so more effectively; and

55 (I) any environmental impacts and hazards related to cannabis
56 production.

1 (e) Reasonable costs incurred by the state police to expand and
2 enhance the drug recognition expert training program and technologies
3 utilized in the process of maintaining road safety.

4 4. After the dispersal of moneys pursuant to subdivision three of this
5 section, the remaining moneys in the fund deposited during the prior
6 fiscal year shall be disbursed into the state lottery fund and two addi-
7 tional sub-funds created within the cannabis revenue fund known as the
8 drug treatment and public education fund and the community grants rein-
9 vestment fund, as follows:

10 (a) twenty-five percent shall be deposited in the state lottery fund
11 established by section ninety-two-c of this article; provided that such
12 moneys shall be distributed to the department of education in accordance
13 with subdivisions two and four of section ninety-two-c of this article
14 and shall not be utilized for the purposes of subdivision three of such
15 section. Monies allocated by this article may enhance, but shall not
16 supplant, existing dedicated funds to the department of education;

17 (b) twenty-five percent shall be deposited in the drug treatment and
18 public education fund established by section ninety-nine-jj of this
19 article; and

20 (c) fifty percent shall be deposited in the community grants reinvest-
21 ment fund established by section ninety-nine-kk of this article.

22 § 99-jj. New York state drug treatment and public education fund. 1.
23 There is hereby established in the joint custody of the state comp-
24 troller and the commissioner of taxation and finance a special fund to
25 be known as the "New York state drug treatment public education fund".

26 2. Such fund shall consist of revenues received pursuant to the
27 provisions of section ninety-nine-ii of this article and all other
28 moneys appropriated thereto from any other fund or source pursuant to
29 law. Nothing contained in this section shall prevent the state from
30 receiving grants, gifts or bequests for the purposes of the fund as
31 defined in this section and depositing them into the fund according to
32 law.

33 3. The moneys in such fund shall be expended to the commissioner of
34 the office of addiction services and supports and disbursed, in consul-
35 tation with the commissioner of the department of health and the commis-
36 sioner of education for the following purposes:

37 (a) To develop and implement a youth-focused public health education
38 and prevention campaign, including school-based prevention, early inter-
39 vention, and health care services and programs to reduce the risk of
40 cannabis and other substance use by school-aged children;

41 (b) To develop and implement a statewide public health campaign
42 focused on the health effects of cannabis and legal use, including an
43 ongoing education and prevention campaign that educates the general
44 public, including parents, consumers and retailers, on the legal use of
45 cannabis, the importance of preventing youth access, the importance of
46 safe storage and preventing secondhand cannabis smoke exposure, informa-
47 tion for pregnant or breastfeeding women, and the overconsumption of
48 edible cannabis products;

49 (c) To provide substance use disorder treatment programs for youth and
50 adults, with an emphasis on programs that are culturally and gender
51 competent, trauma-informed, evidence-based and provide a continuum of
52 care that includes screening and assessment (substance use disorder as
53 well as mental health), early intervention, active treatment, family
54 involvement, case management, overdose prevention, prevention of commu-
55 nicable diseases related to substance use, relapse management for
56 substance use and other co-occurring behavioral health disorders, voca-

1 tional services, literacy services, parenting classes, family therapy
2 and counseling services, medication-assisted treatments, psychiatric
3 medication and psychotherapy; and

4 (d) To evaluate the programs being funded to determine their effec-
5 tiveness.

6 4. On or before the first day of February each year, the commissioner
7 of the office of addiction services and supports shall provide a written
8 report to the temporary president of the senate, speaker of the assem-
9 bly, chair of the senate finance committee, chair of the assembly ways
10 and means committee, chair of the senate committee on alcoholism and
11 drug abuse, chair of the assembly alcoholism and drug abuse committee,
12 the state comptroller and the public. Such report shall detail how the
13 moneys of the fund were utilized during the preceding calendar year, and
14 shall include:

15 (a) the amount of money dispersed from the fund and the award process
16 used for such disbursements;

17 (b) recipients of awards from the fund;

18 (c) the amount awarded to each recipient of an award from the fund;

19 (d) the purposes for which such awards were granted; and

20 (e) a summary financial plan for such monies which shall include esti-
21 mates of all receipts and all disbursements for the current and succeed-
22 ing fiscal years, along with the actual results from the prior fiscal
23 year.

24 5. Moneys shall be payable from the fund on the audit and warrant of
25 the comptroller on vouchers approved and certified by the commissioner
26 of addiction services and supports.

27 § 99-kk. New York state community grants reinvestment fund. 1. There
28 is hereby established in the joint custody of the state comptroller and
29 the commissioner of taxation and finance a special fund to be known as
30 the "New York state community grants reinvestment fund".

31 2. Such fund shall consist of all revenues received pursuant to the
32 provisions of section ninety-nine-ii of this article and all other
33 moneys appropriated thereto from any other fund or source pursuant to
34 law. Nothing contained in this section shall prevent the state from
35 receiving grants, gifts or bequests for the purposes of the fund as
36 defined in this section and depositing them into the fund according to
37 law.

38 3. The fund shall be governed and administered by an executive steer-
39 ing committee of fifteen members, including the chief equity officer of
40 the office of cannabis management, who shall be the chair, a represen-
41 tative from the office of children and family services, the department
42 of labor, the department of health, the division of housing and communi-
43 ty renewal, and the office of addiction services and supports appointed
44 by the governor; a representative of the education department appointed
45 by the board of regents; two members appointed by the temporary presi-
46 dent of the senate; two members appointed by the speaker of the assem-
47 bly; one member appointed by the minority leader of the senate; one
48 member appointed by the minority leader of the assembly; one member
49 appointed by the comptroller; and one member appointed by the attorney
50 general. Every effort shall be made to ensure a balanced and diverse
51 committee representing the regions and demographics of the state, which
52 shall have expertise in job placement, homelessness and housing, behav-
53 ioral health and substance use disorder treatment, and effective rehabi-
54 litative treatment for adults and juveniles, and shall include represen-
55 tatives of organizations serving communities impacted by past federal
56 and state drug policies.

1 4. The moneys in such fund shall be administered by the office of
2 cannabis management and allocated by the executive steering committee to
3 provide grants for qualified community-based nonprofit organizations and
4 approved local government entities for the purpose of reinvesting in
5 communities disproportionately affected by past federal and state drug
6 policies. Such grants shall be used, including but not limited to, to
7 support job placement, job skills services, adult education, mental
8 health treatment, substance use disorder treatment, housing, financial
9 literacy, community banking, nutrition services, services to address
10 adverse childhood experiences, afterschool and child care services,
11 system navigation services, legal services to address barriers to
12 reentry, including, but not limited to, providing representation and
13 related assistance with expungement, vacatur, substitution and resen-
14 tencing of marihuana-related convictions, and linkages to medical care,
15 women's health services and other community-based supportive services.
16 The grants from this program may also be used to further support the
17 social and economic equity program created by article four of the canna-
18 bis law and as established by the cannabis control board.

19 5. On or before the first day of February each year, the office of
20 cannabis management shall provide a written report to the temporary
21 president of the senate, speaker of the assembly, chair of the senate
22 finance committee, chair of the assembly ways and means committee, chair
23 of the senate committee on children and families, chair of the assembly
24 children and families committee, chair of the senate committee on labor,
25 chair of the assembly labor committee, chair of the senate committee on
26 health, chair of the assembly health committee, chair of the senate
27 committee on education, chair of the assembly education committee, the
28 state comptroller and the public. Such report shall detail how the
29 monies of the fund were utilized during the preceding calendar year, and
30 shall include:

31 (a) the amount of money available and dispersed from the fund and the
32 award process used for such disbursements;
33 (b) recipients of awards from the fund;
34 (c) the amount awarded to each recipient of an award from the fund;
35 (d) the purposes for which such awards were granted; and
36 (e) a summary financial plan for such monies which shall include esti-
37 mates of all receipts and all disbursements for the current and succeed-
38 ing fiscal years, along with the actual results from the prior fiscal
39 year.

40 6. Moneys shall be payable from the fund on the audit and warrant of
41 the comptroller on vouchers approved and certified by the office of
42 cannabis management.

43 § 52. Paragraphs (a), (b) and (c) of subdivision 3-a of section 390-b
44 of the social services law, as added by section 9 of part H of chapter
45 56 of the laws of 2019, are amended to read as follows:

46 (a) In relation to child day care programs and any enrolled legally-
47 exempt provider, when a clearance conducted pursuant to this section
48 reveals that any existing operator, director, caregiver, or person over
49 the age of eighteen who is not related in any way to all children for
50 whom child care services are or will be provided, that resides in a home
51 where child care is provided in a home setting where the child does not
52 reside has been convicted of a crime other than one set forth in subpar-
53 agraph (iv) of paragraph (a) of subdivision three of this section, and
54 unless such crime is eligible for expungement pursuant to section 160.50
55 of the criminal procedure law, the office of children and family
56 services shall conduct a safety assessment of the program and take all

1 appropriate steps to protect the health and safety of the children in
2 the program, and may deny, limit, suspend, revoke or reject such
3 program's license or registration or terminate or reject such program's
4 enrollment, as applicable, unless the office of children and family
5 services, determines in its discretion, that continued operation by the
6 child day care program or enrolled legally-exempt provider will not in
7 any way jeopardize the health, safety or welfare of the children cared
8 for in the program or by the provider.

9 (b) In relation to child day care programs and any enrolled legally-
10 exempt provider, when a clearance conducted pursuant to this section
11 reveals that any existing employee or volunteer with the potential for
12 unsupervised contact with children has been convicted of a crime other
13 than one set forth in subparagraph (iv) of paragraph (a) of subdivision
14 three of this section, and unless such crime is eligible for expungement
15 pursuant to section 160.50 of the criminal procedure law, the office of
16 children of family services shall conduct a safety assessment of the
17 program and take all appropriate steps to protect the health and safety
18 of the children in the program. The office of children and family
19 services may direct the program or provider to terminate the employee or
20 volunteer based on such a conviction, consistent with article
21 twenty-three-A of the correction law.

22 (c) (i) In relation to any child day care programs and any enrolled
23 legally-exempt providers, where a clearance conducted pursuant to this
24 section reveals a conviction for a crime other than one set forth in
25 subparagraph (iv) of paragraph (a) of subdivision three of this section,
26 and unless such crime is eligible for expungement pursuant to section
27 160.50 of the criminal procedure law, for any prospective employee or
28 volunteer, the office of children and family services may direct that
29 such person not be hired, as applicable, based on such a conviction,
30 consistent with article twenty-three-A of the correction law.

31 (ii) In relation to any child day care program and any enrolled legal-
32 ly-exempt provider, when a clearance conducted pursuant to this section
33 reveals a conviction for a crime other than one set forth in subpara-
34 graph (iv) of paragraph (a) of subdivision three of this section, and
35 unless such crime is eligible for expungement pursuant to section 160.50
36 of the criminal procedure law, for any prospective caregiver seeking
37 enrollment, or applicant to be a director or operator, the office of
38 children and family services may deny the application or enrollment,
39 consistent with article twenty-three-A of the correction law.

40 § 53. Subparagraph 1 of paragraph (e) of subdivision 2 of section
41 378-a of the social services law, as amended by section 10 of part L of
42 chapter 56 of the laws of 2015, is amended to read as follows:

43 (1) Notwithstanding any other provision of law to the contrary, an
44 application for certification or approval of a prospective foster parent
45 or prospective adoptive parent shall be denied and, in the event of
46 death or incapacity of a relative guardian, an agreement to provide
47 payments to a prospective successor guardian pursuant to title ten of
48 this article shall not be approved pursuant to subparagraph (ii) of
49 paragraph (b) of subdivision five of section four hundred fifty-eight-b
50 of this article, as applicable, where a criminal history record of the
51 prospective foster parent, prospective adoptive parent or prospective
52 successor guardian, as applicable, reveals a conviction for:

53 (A) a felony conviction at any time involving: (i) child abuse or
54 neglect; (ii) spousal abuse; (iii) a crime against a child, including
55 child pornography; or (iv) a crime involving violence, including rape,

1 sexual assault, or homicide, other than a crime involving physical
2 assault or battery; or

3 (B) a felony conviction within the past five years for physical
4 assault, battery, or a drug-related offense, unless such offense is
5 eligible for expungement pursuant to section 160.50 of the criminal
6 procedure law; or

7 § 54. Paragraph (b) of subdivision 4 of section 132 of the social
8 services law, as added by section 23 of part B of chapter 436 of the
9 laws of 1997, is amended to read as follows:

10 (b) When the screening process indicates that there is reason to
11 believe that an applicant or recipient is abusing or dependent on alco-
12 hol or drugs, the social services district shall require a formal alco-
13 hol or substance abuse assessment, which may include drug testing, to be
14 performed by an alcohol and/or substance abuse professional credentialed
15 by the office of [~~alcoholism and substance abuse services~~] addiction
16 services and supports. Provided however, if the applicant or recipient
17 tests positive for the presence of cannabis, the positive result alone
18 shall not be sufficient to establish a dependence for purposes of
19 requiring an individual to participate in a treatment program pursuant
20 to paragraph (c) of this subdivision. The assessment may be performed
21 directly by the district or pursuant to contract with the district.

22 § 55. Subdivision 6 of section 422 of the social services law, as
23 amended by section 7 of part D of chapter 501 of the laws of 2012, is
24 amended to read as follows:

25 6. In all other cases, the record of the report to the statewide
26 central register shall be expunged ten years after the eighteenth birth-
27 day of the youngest child named in the report. In the case of a child in
28 residential care the record of the report to the statewide central
29 register shall be expunged ten years after the reported child's eigh-
30 teenth birthday. In any case and at any time, the commissioner of the
31 office of children and family services may amend any record upon good
32 cause shown and notice to the subjects of the report and other persons
33 named in the report. Provided however, any report indicated for
34 maltreatment based solely on the purchase, possession or consumption of
35 cannabis, without a showing that the child's physical, mental or
36 emotional condition was impaired or was in imminent danger of becoming
37 impaired established by a fair preponderance of the evidence shall imme-
38 diately be sealed upon a request pursuant to subdivision eight of this
39 section or section four hundred twenty-four-a of this title.

40 § 56. Intentionally omitted.

41 § 57. Subdivision (a) of section 712 of the family court act, as
42 amended by section 1 of part K of chapter 56 of the laws of 2019, is
43 amended to read as follows:

44 (a) "Person in need of supervision". A person less than eighteen years
45 of age: (i) who does not attend school in accordance with the provisions
46 of part one of article sixty-five of the education law; (ii) who is
47 incorrigible, ungovernable or habitually disobedient and beyond the
48 lawful control of a parent or other person legally responsible for such
49 child's care, or other lawful authority; (iii) who violates the
50 provisions of [~~:(1) section 221.05; or (2)~~] section 230.00 of the penal
51 law; (iv) or who appears to be a sexually exploited child as defined in
52 paragraph (a), (c) or (d) of subdivision one of section four hundred
53 forty-seven-a of the social services law, but only if the child consents
54 to the filing of a petition under this article.

1 § 58. Paragraph (iii) of subdivision (a) of section 1046 of the family
2 court act, as amended by chapter 984 of the laws of 1981, is amended to
3 read as follows:

4 (iii) proof that a person repeatedly misuses a drug or drugs or alco-
5 holic beverages, to the extent that it has or would ordinarily have the
6 effect of producing in the user thereof a substantial state of stupor,
7 unconsciousness, intoxication, hallucination, disorientation, or incom-
8 petence, or a substantial impairment of judgment, or a substantial
9 manifestation of irrationality, shall be prima facie evidence that a
10 child of or who is the legal responsibility of such person is a
11 neglected child except that such drug, or alcoholic beverage misuse
12 shall not be prima facie evidence of neglect when such person is volun-
13 tarily and regularly participating in a recognized rehabilitative
14 program. Provided however, the sole fact that an individual consumes
15 cannabis, without a separate finding that the child's physical mental or
16 emotional condition was impaired or is in imminent danger of becoming
17 impaired established by a fair preponderance of the evidence shall not
18 be sufficient to establish prima facie evidence of neglect; and

19 § 59. Section 1 of chapter 174 of the laws of 1968, constituting the
20 New York state urban development corporation act, is amended by adding a
21 new section 16-ee to read as follows:

22 § 16-ee. Loans to social and economic equity applicants. The corpo-
23 ration is authorized and directed, on the recommendation of the state
24 cannabis control board, to provide low interest or zero-interest loans
25 to qualified social and economic equity applicants as provided for in
26 article four of the cannabis law.

27 § 60. The division of state police shall, subject to available appro-
28 priations, increase the number of trained and certified drug recognition
29 experts within the state, and provide increased drug recognition aware-
30 ness training under its drug recognition program. The department of
31 health shall, subject to available appropriations, review available
32 technologies approved for utilization in the recognition of drug impair-
33 ment by operators of motor vehicles, with a focus on specific technology
34 to recognize acute impairment as compared to habitual cannabis usage and
35 submit a report on such technologies to the governor and the legislature
36 by March 1, 2022.

37 § 61. The commissioner of education shall, subject to available appro-
38 priations, establish a grant program to provide awards to school
39 districts and boards of cooperative educational services for the purpose
40 of establishing school-based programs for initiatives such as anti-vap-
41 ing programs, drug prevention and awareness programs, the use of liquid
42 cannabis in vaping products, and the over-consumption of edible products
43 that contain cannabis. Provided that such grants shall be awarded by the
44 commissioner of education to applicants based on factors including but
45 not limited to: (A) community and parental engagement; (B) the appli-
46 cant's program design to meet the specific needs of students; and (C)
47 proposal quality. Provided further, that such funds shall only be used
48 to supplement, and not supplant, current local expenditures of federal,
49 state or local funds. Provided further, that no district or board of
50 cooperative educational services shall receive a grant in excess of the
51 total actual grant expenditures incurred by the school district or board
52 of cooperative educational services in the current school year, as
53 approved by the commissioner of education.

54 § 62. The commissioner of the office of addiction services and
55 supports, in consultation with the commissioner of health and the
56 commissioner of education, shall, subject to available appropriations,

1 immediately to the extent possible execute the activities described in
2 subdivision 3 of section 99-jj of the state finance law, as added by
3 section fifty-one of this act.

4 § 63. Severability. If any provision or term of this act is for any
5 reason declared unconstitutional or invalid or ineffective by any compe-
6 tent jurisdiction, such decision shall not affect the validity of the
7 effectiveness of the remaining portions of this act or any part thereof.

8 § 64. This act shall take effect immediately; provided, however, that
9 sections six and six-a of this act shall take effect six months after
10 the full cannabis control board created by article two of the cannabis
11 law has been appointed and provided that the governor shall notify the
12 legislative bill drafting commission upon such full appointment in order
13 that the commission may maintain an accurate and timely effective data
14 base of the official text of the laws of the state of New York in furth-
15 erance of effectuating the provisions of section 44 of the legislative
16 law and section 70-b of the public officers law; provided, further that
17 the expungement of marihuana convictions under section 160.50 of the
18 criminal procedure law, added by the amendment in section seventeen of
19 this act, shall occur promptly and in any event no later than one year
20 after the effective date of this act; and provided, further, that
21 sections thirty-nine and forty of this act shall take effect April 1,
22 2022, and shall apply on and after such date to the sale or transfer of
23 adult-use cannabis products to a retail dispensary; provided, further,
24 that the amendments to article 179 of the penal law made by section
25 forty-seven of this act shall not affect the repeal of such article and
26 shall be deemed to be repealed therewith; provided, further, that the
27 amendments to section 89-h of the state finance law made by section
28 fifty of this act shall not affect the repeal of such section and shall
29 be deemed repealed therewith.